

EXHIBIT 9

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY

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4 IN RE: JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING, SALES MDL NO. 16-2738
5 PRACTICES, AND PRODUCTS LIABILITY (FLW) (LHG)
LITIGATION

6 -----

7 This Document Relates to All

Cases and Also to: Case No.
8 1422-CC09326-03
Valerie Swann v. Johnson & Division 10
9 Johnson, et al.,

10 _____/

11

ATTORNEYS EYES ONLY DESIGNATION

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FRIDAY, OCTOBER 1, 2021

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15 In-Person Stenographic Deposition of REBECCA
SMITH-BINDMAN, M.D., conducted at the La Meridian
16 Hotel, 333 Battery Street, San Francisco, California,
beginning at 9:40 a.m. Pacific Time, before Sandra
17 Bunch VanderPol, FAPR, RMR, CRR, CSR #3032

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10 Consumer Inc. And Johnson &
11 Johnson's First Set of Requests
12 for the Production of Documents to
13 Rebecca Smith-Bindman, MD; 7 pages
14 Exhibit 2 MDL Notice of Oral and Videotaped 9
15 Deposition of Rebecca
16 Smith-Bindman, MD and Duces Tecum;
17 9 pages
18 Exhibit 3 Defendants Johnson & Johnson and 9
19 Johnson & Johnson Consumer
20 Companies, Inc.'s Notice With
21 Subpoena Duces Tecum of Deposition
22 of Rebecca Smith-Bindman, MD;
23 7 pages
24 Exhibit 4 September 22, 2021 Production, 12
25 multiple documents
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3 Exhibit 9 Amended Expert Report of Rebecca 18
Smith-Bindman, MD; 123 pages
4 Exhibit 10 Rule 26 Expert Report of Rebecca 19
Smith-Bindman, MD; 113 pages
5 Exhibit 11 Redline - Amended Expert Report of 19
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6 206 pages
7 Exhibit 12 Exhibit A: Curriculum Vitae of 20
Rebecca Smith-Bindman, MD;
8 35 pages
9 Exhibit 13 Exhibit B: Scientific Literature 21
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10 Exhibit 14 Exhibit C: Rebecca Smith-Bindman, 23
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12 Exhibit 15 Updated and current Curriculum 21
13 Vitae of Rebecca Smith-Bindman, MD
14 (to be proved by Plaintiffs'
15 Counsel to court reporter)
16 Exhibit 16 Dropbox Production, multiple pages 25
17 Exhibit 17 2016 Cramer article titled, "The 162
18 Association Between Talc Use and
19 Ovarian Cancer," A Retrospective
20 Case-Control Study in Two US
21 States," published in
22 "Epidemiology"; 36 pages
23 Exhibit 18 2004 Mills publication titled, 162
24 "Perineal Talc Exposure and
25 Epithelial Ovarian Cancer Risk In
the Central Valley of California,"
published in "Cancer"; 7 pages
Exhibit 19 1997 Chang publication titled, 166
"Perineal Talc Exposure and Risk
of Ovarian Carcinoma"; 6 pages

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2 Exhibit # Description Page
3 Exhibit 20 1997 Cook publication titled, 167
4 "Perineal Powder Exposure and the
5 Risk of Ovarian Cancer," published
6 in "American Journal of
7 Epidemiology"; 7 pages
8 Exhibit 21 2000 Gertig article titled, 168
9 "Prospective Study of Talc Use and
10 Ovarian Cancer" published in the
11 "Journal of the National Cancer
12 Institute"; 4 pages
13 Exhibit 22 2021 Health Canada Screening 173
14 Assessment; 71 pages
15 Exhibit 23 O'Brien publication, "Association 202
16 of Powder Use in the Genital Area
17 With Risk of Ovarian Cancer,"
18 published in JAMA; 11 pages
19 --o0o--

<p style="text-align: right;">Page 6</p> <p>1 BE IT REMEMBERED that on Friday, the 1st</p> <p>2 day of October, 2021, commencing at the hour of</p> <p>3 9:40 a.m. Pacific Time, conducted at the Le Meridian</p> <p>4 Hotel, 333 Battery Street, San Francisco, California,</p> <p>5 before me, Sandra Bunch VanderPol, a Certified</p> <p>6 Shorthand Reporter in and for the State of</p> <p>7 California, personally appeared.</p> <p>8 REBECCA SMITH-BINDMAN, M.D.,</p> <p>9 Expert witness herein, who, having been duly</p> <p>10 sworn, was thereupon examined and interrogated as</p> <p>11 hereinafter set forth.</p> <p>12 --oOo--</p> <p>13 THE REPORTER: Raise your right hand,</p> <p>14 please.</p> <p>15 Do you solemnly swear or affirm that the</p> <p>16 testimony you are about to give in this proceeding</p> <p>17 will be the truth, the whole truth, and nothing but</p> <p>18 the truth, so help you God?</p> <p>19 THE WITNESS: I do.</p> <p>20 EXAMINATION</p> <p>21 BY MR. ZELLERS:</p> <p>22 Q. Can you state your name for the record,</p> <p>23 please.</p> <p>24 A. Rebecca Smith-Bindman.</p> <p>25 Q. Dr. Smith-Bindman, my name is Michael</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And have you worked with counsel for the</p> <p>2 plaintiffs to respond to that request for production?</p> <p>3 A. Yes, I have.</p> <p>4 MS. O'DELL: I will just state for the</p> <p>5 record, we have worked with Dr. Smith-Bindman</p> <p>6 consistent with Judge Schneider's rulings in this</p> <p>7 case to produce all of the materials in her custody</p> <p>8 and control in response.</p> <p>9 BY MR. ZELLERS:</p> <p>10 Q. Dr. Smith-Bindman, you understand when I use</p> <p>11 the word "unpublished study," that we're referring to</p> <p>12 the study that's referenced in the request for</p> <p>13 production of documents that have been marked as</p> <p>14 Exhibit 1; correct?</p> <p>15 A. Yes.</p> <p>16 Q. Have you, to the best of your knowledge,</p> <p>17 produced all documents that are responsive to the</p> <p>18 request for production relating to your unpublished</p> <p>19 study?</p> <p>20 A. Yes.</p> <p>21 Q. Are there any additional documents that you</p> <p>22 believe need to be produced or may be produced at</p> <p>23 some later time?</p> <p>24 A. No.</p> <p>25 Q. Any other searches you need to make for</p>
<p style="text-align: right;">Page 7</p> <p>1 Zellers, and I am here today on behalf of the</p> <p>2 Johnson & Johnson defendants, both in the MDL talc</p> <p>3 ovarian cancer MDL proceeding and also for the</p> <p>4 Missouri State Court of Swann.</p> <p>5 I have got some questions for you. Any</p> <p>6 reason that we cannot proceed?</p> <p>7 A. No.</p> <p>8 (Exhibit No. 1 was marked.)</p> <p>9 BY MR. ZELLERS:</p> <p>10 Q. I have placed in front of you a number of</p> <p>11 documents, which are exhibits to this deposition. So</p> <p>12 what I would like to do with you at the outset is go</p> <p>13 through those documents and just ask you some</p> <p>14 questions and have you confirm what those documents</p> <p>15 are.</p> <p>16 Deposition Exhibit 1 is the request for</p> <p>17 production relating to your unpublished study; is</p> <p>18 that correct?</p> <p>19 A. Yes.</p> <p>20 Q. You will see that that document request --</p> <p>21 withdraw that.</p> <p>22 The deposition notice includes a document</p> <p>23 request, and you have seen that request for</p> <p>24 production before; correct?</p> <p>25 A. I have, yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 documents responsive to Deposition Exhibit 1?</p> <p>2 A. No.</p> <p>3 (Exhibit No. 2 was marked.)</p> <p>4 (Exhibit No. 3 was marked.)</p> <p>5 BY MR. ZELLERS:</p> <p>6 Q. Deposition Exhibit 2 is the MDL Notice of</p> <p>7 Deposition for today. And Deposition Exhibit 3 is</p> <p>8 the deposition notice in the Swann case; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Both Deposition Exhibit 2 and 3 request that</p> <p>12 you bring certain documents or produce certain</p> <p>13 documents in connection with this deposition. Do you</p> <p>14 see that?</p> <p>15 A. I do. I'm not sure that I saw the notice</p> <p>16 about the Swann case.</p> <p>17 Q. I received the notice of the Swann case</p> <p>18 yesterday evening. So --</p> <p>19 MS. O'DELL: I'm not sure I have seen the</p> <p>20 notice to the Swann case either. But there may be</p> <p>21 some objections on the requests. I need to make the</p> <p>22 objection on the record. I can do that now and you</p> <p>23 could ask Dr. Smith-Bindman questions.</p> <p>24 MR. ZELLERS: You are reserving all your</p> <p>25 rights to objections to the deposition notice, which</p>

<p style="text-align: right;">Page 10</p> <p>1 we marked as Exhibit 3.</p> <p>2 Q. Dr. Smith-Bindman, is it correct that you</p> <p>3 did see the deposition notice for the MDL deposition,</p> <p>4 which we marked as Exhibit 2?</p> <p>5 A. Yes, I did.</p> <p>6 Q. Through counsel for plaintiffs, have you</p> <p>7 responded to that deposition notice and request for</p> <p>8 documents?</p> <p>9 A. I have.</p> <p>10 Q. Have you produced all responsive documents</p> <p>11 to the deposition notice, Exhibit 2?</p> <p>12 A. I did.</p> <p>13 MS. O'DELL: Sorry. I'm just going to have</p> <p>14 to cite that Dr. Smith-Bindman has brought with her</p> <p>15 all documents responsive or that have been produced</p> <p>16 in advance of the deposition, other than those</p> <p>17 subject to work product privilege or other -- or</p> <p>18 other privilege.</p> <p>19 BY MR. ZELLERS:</p> <p>20 Q. Dr. Smith-Bindman, have you brought any</p> <p>21 documents to the deposition, in terms of hard copies?</p> <p>22 A. I have a copy of my expert report.</p> <p>23 Q. All right. What else?</p> <p>24 A. I have a copy of what I'm calling my</p> <p>25 subsequent research, the research that you've asked</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Is there a reason that you brought hard</p> <p>2 copies of the Wentzensen 2021 and O'Brien 2020</p> <p>3 articles with you?</p> <p>4 A. The O'Brien was one of the articles that was</p> <p>5 used when I updated my Amended Expert Report. And</p> <p>6 the Wentzensen, no, I was just in the middle of</p> <p>7 reading it, so I have it with me.</p> <p>8 (Exhibit No. 4 was marked.)</p> <p>9 BY MR. ZELLERS:</p> <p>10 Q. Deposition Exhibit 4 is the first group of</p> <p>11 documents that were produced in response to the</p> <p>12 request for production relating to your unpublished</p> <p>13 study, which we marked as Deposition Exhibit 1; is</p> <p>14 that right?</p> <p>15 A. Could you say that one more time?</p> <p>16 Q. Sure.</p> <p>17 We have received a total of four productions</p> <p>18 from counsel for plaintiffs responsive to the request</p> <p>19 for production for unpublished study, which we have</p> <p>20 marked as Deposition Exhibit 1. The exhibit that you</p> <p>21 have in front of you is a hard copy of the first</p> <p>22 production relating to your unpublished study, and it</p> <p>23 runs from pages 1 to 818.</p> <p>24 MS. O'DELL: Object to the form of the</p> <p>25 question. May I --</p>
<p style="text-align: right;">Page 11</p> <p>1 about.</p> <p>2 Q. And excuse me for interrupting. When you</p> <p>3 say "subsequent research," is that a copy of your</p> <p>4 unpublished study?</p> <p>5 A. Yes.</p> <p>6 Q. Anything else that you have brought with you</p> <p>7 today?</p> <p>8 A. And I happen to have a copy of an article.</p> <p>9 Q. What article did you bring with you?</p> <p>10 A. It was one I was reading -- actually, I have</p> <p>11 two articles. One is Wentzensen, and the other is by</p> <p>12 O'Brien.</p> <p>13 Q. The O'Brien paper, is that her paper that</p> <p>14 was published in JAMA --</p> <p>15 A. Yes.</p> <p>16 Q. -- in 2020?</p> <p>17 A. Yes.</p> <p>18 Q. The Wentzensen paper, that is a paper that</p> <p>19 was published this year; is that right?</p> <p>20 A. That's right. O'Brien is also in that paper</p> <p>21 as an author. It was published after the systematic</p> <p>22 review.</p> <p>23 Q. Any other documents that you have brought</p> <p>24 here with you today?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 13</p> <p>1 MR. ZELLERS: Do you have a question or --</p> <p>2 MS. O'DELL: Yes. Dr. Smith-Bindman wasn't</p> <p>3 on the emails that had the first production. She</p> <p>4 might not have an appreciation if it was the first,</p> <p>5 the second batch, et cetera. So just making that</p> <p>6 statement.</p> <p>7 MR. ZELLERS: Understood.</p> <p>8 (Exhibit No. 5 was marked.)</p> <p>9 (Exhibit No. 6 was marked.)</p> <p>10 (Exhibit No. 7 was marked.)</p> <p>11 BY MR. ZELLERS:</p> <p>12 Q. For the record, Dr. Smith-Bindman, we have</p> <p>13 received various productions through counsel for</p> <p>14 plaintiffs in response to the request for production</p> <p>15 relating to your unpublished study. The total of</p> <p>16 those pages go from Bates stamp 1 through 1,391.</p> <p>17 In addition, we have received a fourth</p> <p>18 production, which relate to some unredacted pages</p> <p>19 from your production. So why don't you just get in</p> <p>20 front of you all four of those exhibits so -- let's</p> <p>21 look at Deposition Exhibit 4.</p> <p>22 A. Yep.</p> <p>23 Q. Deposition Exhibit 5.</p> <p>24 A. Yes.</p> <p>25 Q. Deposition Exhibit 6.</p>

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<p>1 A. Yes.</p> <p>2 Q. And Deposition Exhibit 7.</p> <p>3 A. Yes.</p> <p>4 Q. All right. Are, to the best of your</p> <p>5 understanding --</p> <p>6 MS. O'DELL: I'm sorry to -- I can't -- I'm</p> <p>7 just trying to follow here on my copies. Is this</p> <p>8 Exhibit 5?</p> <p>9 MR. ZELLERS: Yes. So Exhibit 5 are the</p> <p>10 document production Bates Nos. 819 through 1366.</p> <p>11 Deposition Exhibit 6 are the production</p> <p>12 Bates stamp pages 1367 to 1391.</p> <p>13 MS. O'DELL: Thank you.</p> <p>14 MR. ZELLERS: Deposition Exhibit 7 are the</p> <p>15 unredacted pages from the production, and</p> <p>16 specifically pages 46 to 49.</p> <p>17 MS. O'DELL: Thank you.</p> <p>18 MR. ZELLERS: 100 to 101, 812, 814, 843, and</p> <p>19 1,119.</p> <p>20 MS. O'DELL: Thank you very much.</p> <p>21 BY MR. ZELLERS:</p> <p>22 Q. Doctor, included within the production --</p> <p>23 and I marked it separately -- is a very large, it</p> <p>24 looks like Excel spreadsheet that was identified as</p> <p>25 page 962. Is that your understanding?</p>	<p>1 to Dr. Smith-Bindman are marked attorneys' eyes only,</p> <p>2 to the extent that they relate to a response to the</p> <p>3 request for production for the unpublished study.</p> <p>4 I also do not object at this stage to</p> <p>5 marking the transcript attorneys' eyes only, but only</p> <p>6 those portions of the transcript that relate to</p> <p>7 questions about the production and about documents</p> <p>8 within the production. If we have any issues with</p> <p>9 respect to that, then I suggest that at the</p> <p>10 conclusion of the deposition, counsel for plaintiffs</p> <p>11 and counsel for the defendants will work together to</p> <p>12 figure out how to appropriately mark the transcript.</p> <p>13 Is that agreeable, Mr. Lapinski?</p> <p>14 MR. LAPINSKI: That's agreeable with me.</p> <p>15 Leigh, how about with you?</p> <p>16 MS. O'DELL: Yes, we will do that.</p> <p>17 MR. LAPINSKI: That's fine. I'm sorry --</p> <p>18 I'm sorry for the interruption.</p> <p>19 MS. O'DELL: Thank you.</p> <p>20 BY MR. ZELLERS:</p> <p>21 Q. Dr. Smith-Bindman, to the best of your</p> <p>22 understanding, are all of the responsive documents</p> <p>23 that you have to Deposition Exhibit 1, the request</p> <p>24 for production relating to your unpublished study,</p> <p>25 have those been marked as Deposition Exhibit 4, 5,</p>
Page 15	Page 17
<p>1 A. I believe you're right.</p> <p>2 Q. I don't worry about the page number, but</p> <p>3 were there several Excel spreadsheets contained in</p> <p>4 your production?</p> <p>5 A. Yes.</p> <p>6 Q. All right. I will note for the record that</p> <p>7 page 962 is a large Excel spreadsheet. I am not</p> <p>8 going to mark it separately here today because we</p> <p>9 would all have to then take it home with us. We will</p> <p>10 provide whatever documents in electronic form are</p> <p>11 necessary to complete the record, and we will work</p> <p>12 with the court reporter and counsel for plaintiffs on</p> <p>13 that.</p> <p>14 MR. LAPINSKI: Counsel, good morning. This</p> <p>15 is Dan Lapinski, from the Motley Rice law firm.</p> <p>16 I don't know whether it was said at the</p> <p>17 beginning of the deposition, but I do just want to</p> <p>18 note that all of the documents that were just marked</p> <p>19 as exhibits are for attorneys' eyes only, and that</p> <p>20 the entire deposition should be marked as for</p> <p>21 attorneys' eyes only where these exhibits are used.</p> <p>22 MR. ZELLERS: Mr. Lapinski, thank you. I</p> <p>23 don't object for the time -- certainly I don't</p> <p>24 object, and I believe all of the hard copy documents</p> <p>25 that have been provided to counsel this morning and</p>	<p>1 and 6, which in total go from pages 1 through 1,391?</p> <p>2 A. Yes. Yes.</p> <p>3 Q. And as I have noted for the record,</p> <p>4 Deposition Exhibit 7 are just the previously</p> <p>5 identified page numbers from your production that</p> <p>6 have been now produced in unredacted form.</p> <p>7 I will ask you, Dr. Smith, to keep, you</p> <p>8 know, those documents in front of you, Deposition</p> <p>9 Exhibits 4, 5, and 6 and 7, as I will have some</p> <p>10 questions for you. But before I ask you those</p> <p>11 questions, let's finish identifying the rest of the</p> <p>12 exhibits to this deposition.</p> <p>13 (Exhibit No. 8 was marked.)</p> <p>14 BY MR. ZELLERS:</p> <p>15 Q. Deposition Exhibit 8 is a hard copy of your</p> <p>16 invoices in this matter; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Are those all of the invoices that you've</p> <p>19 generated to the plaintiffs in the ovarian cancer</p> <p>20 litigation, or are these just invoices since you were</p> <p>21 deposed originally in the MDL back in 2019?</p> <p>22 A. No. This appears to be the entirety of</p> <p>23 them.</p> <p>24 Q. Have you billed any counsel or anyone else</p> <p>25 for any of the services that you have provided as an</p>

<p style="text-align: right;">Page 18</p> <p>1 expert witness in the ovarian cancer talc litigation?</p> <p>2 A. Are there other invoices, are you asking</p> <p>3 about?</p> <p>4 Q. No. My question to you is -- some experts</p> <p>5 have been involved in different cases, some experts</p> <p>6 have been involved in working with different</p> <p>7 plaintiff law firms, some experts have been involved</p> <p>8 in terms of working, you know, on different products.</p> <p>9 So my question to you is: Do the invoices that we've</p> <p>10 marked as Deposition Exhibit 8, do those reflect all</p> <p>11 of the work that you've done as an expert witness in</p> <p>12 the ovarian cancer litigation?</p> <p>13 A. Yes, they do.</p> <p>14 Q. I understand that you testified recently in</p> <p>15 a trial in Philadelphia, the Kleiner case; is that</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. Any time that you would have related to that</p> <p>19 matter would be included within these invoices?</p> <p>20 A. Yes, that's correct.</p> <p>21 Q. Are you involved as an expert in any other</p> <p>22 ovarian cancer litigation, other than the litigation</p> <p>23 that involves Johnson's Baby Powder?</p> <p>24 A. No, I'm not.</p> <p>25 (Exhibit No. 9 was marked.)</p>	<p style="text-align: right;">Page 20</p> <p>1 of us. I don't think we have an issue with what the</p> <p>2 document is.</p> <p>3 Q. Dr. Smith-Bindman --</p> <p>4 A. Yes.</p> <p>5 Q. -- Deposition Exhibit 11 --</p> <p>6 A. Yes.</p> <p>7 Q. -- it's a redlined document; correct?</p> <p>8 A. Yes. Yes.</p> <p>9 Q. And on the first title -- the title of the</p> <p>10 page it says, "Rule 26 Amended Expert Report of," and</p> <p>11 there are redline markings; is that right?</p> <p>12 A. Yes.</p> <p>13 (Exhibit No. 12 was marked.)</p> <p>14 BY MR. ZELLERS:</p> <p>15 Q. Deposition Exhibit 12 is what was marked as</p> <p>16 Exhibit A to your Amended Expert Report. It's your</p> <p>17 curriculum vitae; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Is Deposition Exhibit 12 an up-to-date</p> <p>20 curriculum vitae?</p> <p>21 A. It's not the most up to date, but it's --</p> <p>22 I'm just looking. It has publications through the</p> <p>23 beginning of 2019.</p> <p>24 Q. So you do have a more up-to-date curriculum</p> <p>25 vitae; is that right?</p>
<p style="text-align: right;">Page 19</p> <p>1 BY MR. ZELLERS:</p> <p>2 Q. Deposition Exhibit 9 is your Amended Expert</p> <p>3 Report, dated July 2nd, 2021; is that correct?</p> <p>4 A. Yes.</p> <p>5 (Exhibit No. 10 was marked.)</p> <p>6 BY MR. ZELLERS:</p> <p>7 Q. Deposition Exhibit 10 is your initial expert</p> <p>8 report dated November 15th of 2018; is that right?</p> <p>9 A. Yes.</p> <p>10 (Exhibit No. 11 was marked.)</p> <p>11 BY MR. ZELLERS:</p> <p>12 Q. Deposition Exhibit 11, I will represent to</p> <p>13 you, is a redlined version of your expert report,</p> <p>14 which compares any changes from your original report</p> <p>15 in November of 2018 to your amended report in July of</p> <p>16 2021.</p> <p>17 Without going through each page, does that</p> <p>18 generally appear to be what that document is? Does</p> <p>19 it appear to be a redlined document?</p> <p>20 A. Yes, a redlined document.</p> <p>21 Q. Does the title state that it is a redlined</p> <p>22 version of your July 2nd, 2021, Amended Expert</p> <p>23 Report?</p> <p>24 MS. O'DELL: I don't see that.</p> <p>25 MR. ZELLERS: Well, let me get it in front</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes.</p> <p>2 Q. Could you send that to Ms. O'Dell?</p> <p>3 MS. O'DELL: Yes, we will provide it.</p> <p>4 MR. ZELLERS: And if you will produce it.</p> <p>5 And we will put a placeholder as Deposition</p> <p>6 Exhibit 15 for your most up-to-date curriculum vitae.</p> <p>7 (Exhibit No. 15 was reserved.)</p> <p>8 BY MR. ZELLERS:</p> <p>9 Q. Doctor, when we get a chance to look at your</p> <p>10 CV that is the most current, are there any</p> <p>11 substantive additions or changes you would need to</p> <p>12 make to that?</p> <p>13 A. I think there are probably additional</p> <p>14 publications, is the main thing.</p> <p>15 Q. Are there any publications on your CV that</p> <p>16 are relevant to your review and analysis of this</p> <p>17 case?</p> <p>18 A. No, there are not.</p> <p>19 (Exhibit No. 13 was marked.)</p> <p>20 BY MR. ZELLERS:</p> <p>21 Q. Deposition Exhibit 13 is what was attached</p> <p>22 as Exhibit B to your Amended Expert Report, and that</p> <p>23 you call your "Scientific Literature and Other</p> <p>24 Sources Listing"; is that right?</p> <p>25 A. Yes.</p>

<p>Page 22</p> <p>1 Q. Can I call that a "Reliance List" or would 2 that be improper? 3 MS. O'DELL: Object to the form. 4 THE WITNESS: It includes a large list of 5 publications, documents that I looked at, some I 6 relied on, some I may have read in -- in less detail 7 if they were not on the topics that I was focused on. 8 BY MR. ZELLERS: 9 Q. Are there some documents contained on your 10 "Scientific Literature and Other Sources List" that 11 you never got around to reviewing? 12 A. Yes, I think that's true. 13 Q. All right. Can you categorize for me what 14 some of those are, or would we have to go item by 15 item? 16 A. I think any publications that relate to 17 epidemiology I would have read in great detail. 18 Publications related to mechanism, I have 19 read some in great detail, some I will have skimmed. 20 Some publications related to constituent 21 components, I would have looked at for a particular 22 piece of information but wouldn't have read in detail 23 cover to cover. 24 Q. Your "Scientific Literature and Other 25 Sources List" is very similar to the lists that have</p>	<p>Page 24</p> <p>1 testimony. 2 In addition, you would now add the Kleiner 3 trial testimony; is that right? 4 A. So just Exhibit C doesn't have anything in 5 it. It's just a single piece of paper. 6 Q. Look on the back. 7 A. Thank you. 8 MS. O'DELL: Would you mind repeating your 9 question, Mike. 10 THE WITNESS: It doesn't mention the Kleiner 11 case on here. 12 MR. ZELLERS: Understood. 13 Q. In order to make Exhibit C accurate and 14 complete, we would need to add your Kleiner 15 testimony; is that right? 16 A. That's correct. There's nothing else. 17 Q. Is there any other testimony that you've 18 provided -- 19 A. No. 20 Q. -- in the last four years? 21 A. No. 22 MS. O'DELL: I would just note for the 23 record, it was correct at the time the report was 24 disclosed. I would just -- 25 MR. ZELLERS: Well, I'm not fighting. I</p>
<p>Page 23</p> <p>1 been provided by other experts in the litigation. Do 2 I understand correctly that that document, that we're 3 looking at here, Exhibit 13, is a document that was 4 put together for you by counsel for plaintiffs? 5 A. I don't know what the document looks like 6 for other people, so I don't -- but I would have 7 generated a list of articles that I have read or that 8 I wanted to read. I asked the lawyers to help me 9 find some. So I believe this list includes all of 10 those, the ones that I relied on, the ones that I 11 asked for, the ones that I saw but didn't go into 12 detail on. 13 Q. Let me ask my question a little more 14 directly. 15 Deposition Exhibit 13, the list of 16 "Scientific Literature and Other Sources," is that a 17 list that was put together by counsel with input from 18 you? 19 A. Yes. 20 (Exhibit No. 14 was marked.) 21 BY MR. ZELLERS: 22 Q. Deposition Exhibit 14 is simply your 23 Medical/Legal Testimony List that was attached as 24 Exhibit C to your amended report. The only testimony 25 that you had on that list was your MDL deposition</p>	<p>Page 25</p> <p>1 will object to any of your objections other than to 2 form. But understood. 3 (Exhibit No. 16 was marked.) 4 MR. ZELLERS: Let's then mark as Deposition 5 Exhibit 16 what will be a Dropbox link that we will 6 provide to the court reporter, which will be the 7 documents that were produced on September 29th, by 8 counsel for plaintiffs to the defendants, which are 9 the documents responsive to Deposition Exhibit 2, the 10 MDL notice. 11 And specifically what's included in that 12 production, which will be marked electronically as 13 Deposition Exhibit 16, are your invoices, which we 14 have marked separately as Exhibit 8, a folder 15 labeled, "Materials Considered," with 533 documents, 16 and a folder labeled, "Reports/Testimony," with 23 17 documents, all of which are represented to be 18 responsive to Deposition Exhibit 2 to the MDL 19 deposition notice. 20 Q. Does that sound right to you, 21 Dr. Smith-Bindman without going through the 22 production? 23 A. Yes, that sounds right. 24 Q. Your unpublished study, you refer to that on 25 page 17 of your amended report, and then also, I</p>

<p>Page 26</p> <p>1 believe, in Deposition Exhibit 4, pages 15 to 45, are 2 your unpublished study; is that right? 3 A. On page 17, yes. 4 Q. On page 17 of the amended report -- 5 A. Yes. 6 Q. -- you talk about following a completion of 7 the analysis that you had done in the MDL -- 8 A. Yes. 9 Q. -- at least the preliminary analysis -- 10 A. Yes. 11 Q. -- that you decided to publish a 12 meta-analysis and systematic review that focused on 13 the frequent use of talcum powder? 14 A. Yes. 15 MS. O'DELL: Object to the form. 16 BY MR. ZELLERS: 17 Q. That's correct? 18 A. Yes. 19 Q. You have worked on that meta-analysis and 20 systematic review and have at least begun the process 21 of attempting to publish that document; correct? 22 A. Yes. 23 Q. This unpublished study is included in the 24 documents that have been produced, Deposition 25 Exhibit 4, pages 15 to 45; is that correct?</p> <p>Page 27</p> <p>1 MS. O'DELL: I need to catch up with you. 2 I'm sorry. 3 BY MR. ZELLERS: 4 Q. So, Dr. Smith-Bindman, do you have 5 Deposition Exhibit 4 in front of you? 6 A. I do. 7 Q. All right. 8 A. And, yes, that, and the pages that you've 9 just described is -- is that -- is that draft of that 10 unpublished paper as of the date of August 21st, 11 2021. 12 Q. A coauthor on that paper with you is 13 Dr. Sean Woolen; is that right? 14 A. Yes. 15 Q. From reviewing the correspondence, it 16 appears that Dr. Woolen reached out to you in 17 September of 2019 and told you that he would like to 18 work with you on a research project; is that right? 19 A. Yes. 20 Q. Dr. Woolen was a fellow in the Department of 21 Radiology at UCSF; is that right? 22 A. Yes. 23 Q. To your knowledge, when Dr. Woolen reached 24 out to you in September of 2019, did he have any 25 experience in terms of preparing a meta-analysis or a</p>	<p>Page 28</p> <p>1 systematic review? 2 A. He had research experience but had not been 3 involved in that kind of research, that I remember. 4 Q. He reached out to you, you suggested several 5 different projects, one of which was that he could 6 help you with respect to putting together a 7 publication, which we now see as your draft 8 unpublished study; is that right? 9 A. He definitely reached out. He threw around 10 a bunch of research ideas, asked me for research 11 ideas. 12 I would just say it was the other way 13 around. He wanted me to help him on a research 14 project rather than that he was going to help me on a 15 research project. He was looking for a project to 16 lead. 17 Q. He was a young doctor, he was getting near 18 the end of or just finishing his training, and he 19 wanted to be involved in a research project with you; 20 is that right? 21 A. That's correct. 22 Q. You made some suggestions, and one of the 23 suggestions was this meta-analysis, the unpublished 24 study, and that was a suggestion you made to 25 Dr. Woolen --</p> <p>Page 29</p> <p>1 A. Yes. 2 Q. -- is that right? 3 A. Yes. 4 Q. Dr. Woolen's background and his training is 5 as a radiologist; is that right? 6 A. Yes. 7 Q. He has no expertise substantively in the 8 area of talcum powder or ovarian cancer or any of 9 those medical issues; correct? 10 A. He was a fellow with me doing ultrasound. 11 So he finished his radiology training, then he did, I 12 think, fellowship training. So he does a lot of work 13 with ovarian cancer patients, in terms of diagnosing 14 them, but had no experience with or knew nothing 15 about the relationship between talc and ovarian 16 cancer, except perhaps having read about it in the 17 published literature. 18 Q. Well, the plan was, back in September 2019, 19 that Dr. Woolen was going to brainstorm with you on 20 what would be an appropriate project; fair? 21 A. Yes. I don't remember the date, but I think 22 you probably have a better -- but that sounds about 23 right. It was the fall of 2019. 24 Q. Yes. And if we need to check, you know, any 25 facts or parts of my questions, of course we can do</p>
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<p>1 that. But we have got the documents in front of us, 2 and they are a part of the record.</p> <p>3 There was, you know, correspondence between 4 you and Dr. Woolen back in the beginning, back in 5 September of 2019, as you were brainstorming what 6 research project he may help you with. And you made 7 a comment that, "Assuming this is creepy, do you have 8 a topic that you think would be of interest to you?"</p> <p>9 And to give you context, you were 10 discussing, and you were suggesting possibly having 11 Dr. Woolen help you to do the meta-analysis, looking 12 at the relationship between talc and ovarian cancer.</p> <p>13 MS. O'DELL: Object to form. And I would 14 just request if you're referring to a specific 15 communication, if you would direct Dr. Smith-Bindman 16 to that page.</p> <p>17 MR. ZELLERS: And as we go along, 18 Ms. O'Dell, please let Dr. Smith-Bindman tell me if 19 she needs to refer to a page. Some of these will 20 just be foundational-type questions. But I 21 understand your objection.</p> <p>22 Q. And, Dr. Smith-Bindman, as we go along, if 23 there are any documents that you need to look at, you 24 need to review, you know, please let me know.</p> <p>25 I'm looking specifically at page 815 in</p>	<p>1 Dr. Woolen, "Assuming this is creepy, do you have a 2 topic you think would be interesting to review?"</p> <p>3 What did you mean when you stated to 4 Dr. Woolen, "Assuming this is creepy"?</p> <p>5 A. I mean that's an auto correct. So I did not 6 intend to say, "Assuming this was creepy." So that's 7 not something I would say. So auto correct inserted 8 "creepy," and I can't -- I'm not sure what I 9 intended.</p> <p>10 But the rest of that sentence says, "Do you 11 have a topic you think would be interesting to 12 review?"</p> <p>13 So my -- my email to him said, I don't think 14 you're interested in this topic, I think a systematic 15 review is a great way to learn how to do research.</p> <p>16 On the prior discussion, on the page before, 17 we said a search for meta-analysis, systematic 18 reviews on hepatocellular carcinoma screening, that 19 is a more radiology focus.</p> <p>20 So this was just saying, if this is not what 21 you want to do, do you have some ideas that you do 22 want to do? The "creepy" --</p> <p>23 Q. Do you have --</p> <p>24 A. -- was just an unfortunate error.</p> <p>25 Q. Well, do you have a recollection today as to</p>
Page 31	Page 33
<p>1 Deposition Exhibit 4. And so all of the documents 2 have numbers at the bottom.</p> <p>3 So do you see that correspondence, that 4 September 16th, 2019 --</p> <p>5 A. You said 814? I must have misheard.</p> <p>6 Q. 815.</p> <p>7 A. 815. I would -- I see the document. You 8 see a -- I'm not sure what the question was.</p> <p>9 Q. So the question is, if we see the email 10 before, Dr. Woolen said he looks forward to 11 brainstorming with you. By this time he had decided 12 that he would like to work with you on a 13 meta-analysis.</p> <p>14 And then you tell him on September 16th of 15 2019, about your planned meta-analysis, looking at 16 the relationship between talc exposure and ovarian 17 cancer. And then you state, "But I am thinking from 18 your note that this would not be of interest as not 19 radiology focused."</p> <p>20 A. Uh-huh.</p> <p>21 Q. Was it your understanding at that time that 22 Dr. Woolen was looking to do some research that would 23 be in the field of radiology?</p> <p>24 A. I -- yes.</p> <p>25 Q. All right. Then your next sentence to</p>	<p>1 what you typed that you believe was auto corrected 2 to, "Assuming this was creepy"?</p> <p>3 A. No.</p> <p>4 Q. The page right before, page 814 from 5 Deposition Exhibit 4, Dr. Woolen said, "I'm not 6 scared of a challenge but realize it will likely 7 require more thoughtfulness and troubleshooting to 8 come up with the design."</p> <p>9 What was your understanding of what 10 Dr. Woolen was saying?</p> <p>11 A. So if you go back, I think he is saying that 12 he's not afraid of a challenge but realized it would 13 likely take more thoughtfulness and troubleshooting 14 to come up with the design, was about doing a design 15 around hepatocellular carcinoma.</p> <p>16 Q. So you believe that comment was unrelated to 17 the --</p> <p>18 A. Yes.</p> <p>19 Q. -- talc meta-analysis that you were planning 20 to do?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. If you --</p> <p>23 A. Yeah.</p> <p>24 Q. You had follow-up discussions with 25 Dr. Woolen; is that right?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Yes.</p> <p>2 Q. And one of the things that you did is that</p> <p>3 you promised him if he did work with you on the talc</p> <p>4 meta-analysis, and that if he was involved in the</p> <p>5 writing, that he could be the first author; is that</p> <p>6 right?</p> <p>7 MS. O'DELL: Objection to form.</p> <p>8 BY MR. ZELLERS:</p> <p>9 Q. Take a look, Dr. Smith-Bindman, at page 812,</p> <p>10 also Deposition Exhibit 4. Do you see that email at</p> <p>11 the bottom, September 21st, 2019 --</p> <p>12 A. Yes.</p> <p>13 Q. -- "Sounds like a plan"?</p> <p>14 A. Yes.</p> <p>15 Q. "If you work on the talc paper and write,</p> <p>16 you are first author, but, oh, need to tell you a</p> <p>17 little more about politics."</p> <p>18 First off, that "O" should be an "I"; is</p> <p>19 that right?</p> <p>20 A. That's correct.</p> <p>21 Q. So it should read, "But I need to tell you a</p> <p>22 little more about politics"?</p> <p>23 A. Yes.</p> <p>24 Q. That was an email that you sent -- is this</p> <p>25 an email or a text message?</p>	<p style="text-align: right;">Page 36</p> <p>1 were a paid expert?</p> <p>2 A. Yes.</p> <p>3 Q. And, in fact, you provided Dr. Woolen with</p> <p>4 your expert report from the MDL litigation; is that</p> <p>5 right?</p> <p>6 A. I believe that is correct.</p> <p>7 Q. Did you send Dr. Woolen any other legal</p> <p>8 documents, or documents that have been generated from</p> <p>9 your work as an expert for the plaintiffs in the</p> <p>10 ovarian cancer litigation?</p> <p>11 A. Can I go back to my last affirmation.</p> <p>12 I don't exactly remember that I gave him my</p> <p>13 expert report, but I wouldn't be surprised if I gave</p> <p>14 it. So if you have a copy of it --</p> <p>15 Q. Sure. Take a look, Dr. Smith-Bindman, same</p> <p>16 deposition exhibit --</p> <p>17 A. Yes.</p> <p>18 Q. -- so it's Exhibit 4, but take a look at</p> <p>19 page 49. And, actually, what I'm going to ask you to</p> <p>20 do is let's look at Deposition Exhibit 7, which is</p> <p>21 the small grouping of documents that have been</p> <p>22 unredacted.</p> <p>23 Do you have Deposition Exhibit 7 in front of</p> <p>24 you?</p> <p>25 A. Yes. I see on page 49 that I said,</p>
<p style="text-align: right;">Page 35</p> <p>1 A. It would be an email.</p> <p>2 Q. So an email that you sent to Dr. Woolen on</p> <p>3 September 21st?</p> <p>4 A. Yes.</p> <p>5 Q. What did you mean when you said, "I need to</p> <p>6 tell you a little more about politics"?</p> <p>7 A. I would not have wanted Sean to work on that</p> <p>8 without knowing that I am a paid expert in the talc</p> <p>9 litigation. So that would be something I would want</p> <p>10 him to go into a project with me on with eyes open,</p> <p>11 knowing that.</p> <p>12 Q. Was there some other politics involved, or</p> <p>13 that you were referencing there?</p> <p>14 A. Just the politics that I am a paid expert in</p> <p>15 the -- in the talc litigation.</p> <p>16 Q. Why would that potentially be a concern for</p> <p>17 Dr. Woolen?</p> <p>18 A. Because I think that I don't actually have</p> <p>19 experience of being an expert that's paid related to</p> <p>20 any of my other work, and so I just don't -- I didn't</p> <p>21 really know if that could potentially interfere with</p> <p>22 the ability to have work published, because you have</p> <p>23 to acknowledge that, and I just didn't want that to</p> <p>24 be a surprise to Sean.</p> <p>25 Q. Did you tell Dr. Woolen that you, in fact,</p>	<p style="text-align: right;">Page 37</p> <p>1 "Enclosed is the report I wrote on talc." So I think</p> <p>2 that confirms I sent him my report.</p> <p>3 And then you asked me a question about, I</p> <p>4 think, document 7.</p> <p>5 Q. Well, do you see at the bottom of page 49 of</p> <p>6 Deposition Exhibit 7, that Margaret Thompson, from</p> <p>7 the Beasley Allen firm, had forwarded you a copy of</p> <p>8 the report on the evening of Friday, September 27; is</p> <p>9 that right?</p> <p>10 A. Can you tell me what page that is?</p> <p>11 Q. 49. Do you see it there?</p> <p>12 A. I see an email from Margaret. The subject</p> <p>13 says, "Report in Word." I don't see any attachment.</p> <p>14 Q. Margaret Thompson is one of the lawyers that</p> <p>15 you've worked with --</p> <p>16 A. Yes.</p> <p>17 Q. -- as a plaintiff lawyer in the MDL</p> <p>18 litigation; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Then at least the next email that we have in</p> <p>21 the chain, Deposition Exhibit 7, page 49, is you</p> <p>22 sending your MDL litigation report to Dr. Woolen; is</p> <p>23 that right?</p> <p>24 A. Yes.</p> <p>25 Q. Have you sent any other documents related --</p>

<p style="text-align: right;">Page 38</p> <p>1 let me withdraw that.</p> <p>2 Have you sent any other documents that you</p> <p>3 received from the lawyers in the MDL litigation to</p> <p>4 Dr. Woolen?</p> <p>5 A. No.</p> <p>6 Q. Have you ever had discussions with</p> <p>7 Dr. Woolen about things you discussed with the</p> <p>8 lawyers, their strengths, their weaknesses in either</p> <p>9 your study or your report or any of your opinions?</p> <p>10 A. I had discussions with Sean recently about</p> <p>11 my sharing all of the documents with the lawyers.</p> <p>12 But you're asking if I had content discussions that I</p> <p>13 had with my lawyer that I shared with Sean?</p> <p>14 Q. Well, that was my first question. Let me</p> <p>15 follow up, though.</p> <p>16 What discussions have you had with</p> <p>17 Dr. Woolen at any time that relate to conversations</p> <p>18 that you've had with the plaintiffs' counsel in this</p> <p>19 litigation?</p> <p>20 A. Other than my letting him know that I was</p> <p>21 going to be sharing our correspondence, I don't</p> <p>22 recall any other discussions that we had.</p> <p>23 Q. You advised Dr. Woolen that you had received</p> <p>24 a request for production of documents relating to the</p> <p>25 unpublished study; is that right?</p>	<p style="text-align: right;">Page 40</p> <p>1 to look at the unredacted pages, which are</p> <p>2 Exhibit 7 -- that on October 1st of 2019, Dr. Woolen</p> <p>3 wrote that the review team --</p> <p>4 A. I'm sorry. Which page?</p> <p>5 Q. Page 48.</p> <p>6 A. Yes.</p> <p>7 Q. Dr. Woolen wrote to you on October 1st,</p> <p>8 2019; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. And he was proposing to you what the review</p> <p>11 team would consist of?</p> <p>12 A. Yes.</p> <p>13 Q. And that Dr. Woolen would be the review</p> <p>14 leader; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. There's a reference to a health</p> <p>17 informationalist or informationist. Would that be a</p> <p>18 librarian?</p> <p>19 A. Yes. Librarian with expertise in searches.</p> <p>20 Q. Dr. Woolen suggested including a content</p> <p>21 expert on the review team. What did you understand</p> <p>22 that to reference?</p> <p>23 A. I'm not sure exactly what he meant. I know</p> <p>24 in my response, at some point I suggested I don't</p> <p>25 think we have a content expert. So -- but I think</p>
<p style="text-align: right;">Page 39</p> <p>1 A. Yes.</p> <p>2 Q. You let him know that you would be producing</p> <p>3 those documents in connection with your medical/legal</p> <p>4 expert work; is that right?</p> <p>5 A. That's correct.</p> <p>6 Q. What was Dr. Woolen's response to that?</p> <p>7 A. He was -- he said that was okay. He hoped</p> <p>8 it didn't interfere with our publishing, but he was</p> <p>9 fine with my doing that.</p> <p>10 Q. To your knowledge, does Dr. Woolen have</p> <p>11 documents that would be responsive to the request for</p> <p>12 production, other than documents that you are privy</p> <p>13 to?</p> <p>14 MS. O'DELL: I'm sorry. Would you repeat</p> <p>15 that. I think I missed a word there.</p> <p>16 MR. ZELLERS: Sure.</p> <p>17 Q. To your knowledge, does Dr. Woolen have</p> <p>18 documents that may be responsive to Deposition</p> <p>19 Exhibit 1, the request for production of documents,</p> <p>20 relating to your unpublished study, that would be</p> <p>21 other than the documents that were in your</p> <p>22 possession?</p> <p>23 A. I don't know of other materials that he has</p> <p>24 that would be relevant.</p> <p>25 Q. Do you see on page 48 -- and we can continue</p>	<p style="text-align: right;">Page 41</p> <p>1 perhaps he was thinking an expert in the relationship</p> <p>2 between ovarian cancer and talc exposure.</p> <p>3 Q. You responded that and offered to reach out</p> <p>4 to faculty who had access to women's health fellows;</p> <p>5 is that right?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you think it might be important to</p> <p>8 have women's health fellows involved in this project</p> <p>9 with you and Dr. Woolen?</p> <p>10 A. I think that Sean and I both had expertise</p> <p>11 in the diagnosis of ovarian cancer, but the patients</p> <p>12 who would be treated for ovarian cancer would be</p> <p>13 users of Johnson & Johnson Baby Powder, are more</p> <p>14 likely to be gynecologists.</p> <p>15 Q. On January 10th of 2020, you communicated</p> <p>16 with Dr. Woolen and told him that, "The editor of</p> <p>17 JAMA reluctantly agreed to read our review." Do you</p> <p>18 recall that communication and that discussion with</p> <p>19 Dr. Woolen?</p> <p>20 Take a look at page 801 --</p> <p>21 A. Of which --</p> <p>22 Q. -- in Deposition Exhibit 4.</p> <p>23 A. Yes, I do remember that email and the</p> <p>24 discussion.</p> <p>25 Q. You state on January 10th, 2020, to</p>

<p style="text-align: right;">Page 42</p> <p>1 Dr. Woolen, "The editor of JAMA reluctantly agreed to 2 read our review." And then in parens, "I suggested 3 we could include our Reference List as one of our two 4 tables as a research letter." 5 Is the Reference List, that you are 6 referring to, similar to what we marked to this 7 deposition as Exhibit 13? 8 A. No. 9 Q. What are you referring to, when you say, 10 "Reference List"? 11 A. So as a little bit of background -- 12 Q. Well, I only have four hours. That's my 13 problem. So -- 14 A. I think I need to clarify what this is. 15 I produced documents related to the research 16 that we've done that you've been describing. 17 Q. The unpublished study. 18 A. The unpublished. 19 Before that was done, this reflects 20 something before that time. And so it's a different 21 piece of analysis. 22 Q. Is that analysis something that you did in 23 connection with your initial MDL review and report? 24 A. No. There was -- there was an extra piece 25 of research in between my initial, that you have seen</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. The Reference List that you're referring to 2 on page 801 -- 3 A. Yes. 4 Q. -- of Exhibit 4 -- 5 A. Yes. 6 Q. -- that relates to a separate research 7 project in which you were considering responding to 8 the O'Brien paper? 9 A. That's correct. 10 Q. The O'Brien paper, just for your reference, 11 was published in JAMA on January 7th of 2020; is that 12 right? 13 A. That sounds -- that sounds -- that sounds 14 correct. 15 Q. Again, if I misstate any dates, we've got 16 the documents -- 17 A. Yes. 18 Q. -- that are here, and they are a part of the 19 record. 20 A. Yes. 21 Q. So this email to Dr. Woolen is three days 22 later, and you were hoping to use this other research 23 in order to do a response to the O'Brien paper or 24 article; is that right? 25 A. Yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 as part of my MDL report, the one that we are working 2 on publishing now. 3 This email reflects when the O'Brien paper 4 was published as a summary of the cohort studies in 5 JAMA. We were already beginning our process. And I 6 raised with Sean the possibility of not doing a 7 complete systematic review but doing a research 8 letter. It's a different beast altogether. It's 9 much shorter. 10 And I thought potentially JAMA would be 11 interested in it because they had just published. 12 They would not publish a new systematic review, but 13 they might do a research letter. 14 The problem with research letters is you're 15 only allowed seven references. And since our 16 research would include at least 11 publications that 17 we were looking at, and at least a response to 18 O'Brien is 12, it would be asking JAMA to go against 19 their rules for only allowing research letters that 20 have seven references. 21 So that was saying -- the editor is not sure 22 about breaking that rule. That's the reluctance. 23 But I proposed that instead of having a long 24 Reference List, we could use one of the two spots to 25 show our references.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Describe for me what this research was. You 2 say it was not the research related to the 3 unpublished study, but it was something separate; 4 correct? 5 A. That's correct. 6 Q. Was it a part of your work for the lawyers 7 in the litigation? 8 A. It was while we were in the process of 9 planning our systematic review, which by its design 10 has a lot of steps. As we were doing that, this 11 publication in JAMA came out. And so I thought, 12 could we do a research letter, basically a short 13 version -- we would still publish the longer 14 version -- but could we do a short version where it 15 would really be focused on more responding to the 16 O'Brien paper. 17 Q. I'm going to call that research regarding 18 responding to the O'Brien paper. 19 A. Yes. 20 Q. And was that research, in terms of 21 responding to the O'Brien paper, it's not something 22 you've included in your response to Deposition 23 Exhibit 1, the production related to the unpublished 24 study? 25 A. I did include it. I included all of it.</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. Is your testimony now that any research you 2 did relating to responding to the O'Brien paper, or 3 any other documents or materials you may have in 4 responding to the O'Brien paper, were included in 5 your response to Deposition Exhibit 1?</p> <p>6 A. Yes.</p> <p>7 Q. Are there any materials, correspondence, 8 emails, research, that you have relating to 9 responding to or potentially responding to the 10 O'Brien paper that you have not produced?</p> <p>11 A. There are no additional documents.</p> <p>12 Q. You talked to Dr. Woolen, and you state: 13 (Reading) So we need to get moving. 14 It remains a very high bar. Would 15 be good to make a plan for how to 16 get the analysis done and written 17 in a month, and we need to divide 18 and conquer (end of reading). 19 That's what you wrote; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. All right. Who is Howard Bauchner?</p> <p>22 A. Bauchner. He at the time was the editor of 23 JAMA.</p> <p>24 Q. And did you know Dr. Bauchner?</p> <p>25 A. I did.</p>	<p style="text-align: right;">Page 48</p> <p>1 their letter editor, of which there is correspondence 2 that you've received.</p> <p>3 Q. What was the hurry to get the analysis and 4 the writing done in a month?</p> <p>5 A. There's a limit of how long you have after a 6 paper is published during when those responses can be 7 considered. And that timing is -- was very short.</p> <p>8 Q. Did the lawyers in the talcum powder 9 litigation, the plaintiff lawyers that you're working 10 with, did they make a request to you to submit a 11 response to the O'Brien paper?</p> <p>12 A. No.</p> <p>13 Q. Have you -- well, let me withdraw that. 14 On January 16th of 2020, you emailed 15 Dr. Woolen a list of inclusion/exclusion criteria. 16 And I'm looking at page 791. 17 Number one, is that correct?</p> <p>18 A. Yes. I see the -- I see the -- I don't -- 19 that -- that summary looks like it's from me, where 20 it says, "Five," and then "Inclusion." But in 21 reading it, I see that it was written by Sean.</p> <p>22 Q. So this is an email from you to Sean, dated 23 January 16, 2020. It sets forth inclusion and 24 exclusion criteria; is that right?</p> <p>25 A. So it's -- you can see that the alignment</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. And how do you know Dr. Bauchner?</p> <p>2 A. I published a large number of papers in 3 JAMA. And the most recent one he was my actual -- I 4 worked with him closely as the editor on my paper.</p> <p>5 Q. Did you have discussions with Dr. Bauchner 6 that are not included in the production here?</p> <p>7 A. I just --</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 THE WITNESS: If there was an email, it's in 10 here. I don't remember if it was all by email or if 11 we had a conversation.</p> <p>12 BY MR. ZELLERS:</p> <p>13 Q. Obviously you communicated with 14 Dr. Bauchner; correct?</p> <p>15 A. That's correct. That's correct.</p> <p>16 Q. And what did you understand him to mean when 17 he reluctantly agreed to read your letter?</p> <p>18 A. Just that they had a very clear rule in JAMA 19 that research letters could not have more than seven 20 references, and that ours would need more for that. 21 So my possible solution was to include a Reference 22 List as one of the two tables allowed in the 23 document. So it would be, you know, potentially 24 stretching the rules, but be possible. 25 And his response was, basically, to talk to</p>	<p style="text-align: right;">Page 49</p> <p>1 left is not consistent. So the inclusion is what 2 Sean wrote -- this was his plan -- and then I think 3 to the left is where I added a comment, "I think we 4 should include all ovarian cancer."</p> <p>5 Q. And then you -- you continue and say, "If we 6 can, limit to serous." Is that correct, what you 7 wrote?</p> <p>8 A. Yes. I think what I intended to say is we 9 should do it two ways. So Sean above had wrote 10 "Inclusion." His third bullet was, "Invasive serous 11 ovarian cancer risk, include subtype or all ovarian 12 cancer, question mark."</p> <p>13 So I said, I think we should do it both 14 ways, include all ovarian cancer. And then, if we 15 can, limit to serous. So I was commenting on his 16 question and said let's do it both ways, all and 17 serous.</p> <p>18 Q. Why would you want to limit it to invasive 19 serous ovarian cancer risk?</p> <p>20 A. That was Sean's idea. So Sean said, "Let's 21 do invasive serous ovarian cancer risk, include 22 subtype or all?"</p> <p>23 And I was saying, well, let's look at all, 24 and we can limit to serous as well. 25 So I think he was saying serous. I was</p>

<p style="text-align: right;">Page 50</p> <p>1 saying, let's do it both ways.</p> <p>2 Q. Well, in fact, in -- I will ask you some</p> <p>3 questions about this later. In your original MDL</p> <p>4 report, the systematic review that you did, that was</p> <p>5 focused on invasive serous ovarian cancer risk;</p> <p>6 correct?</p> <p>7 A. I believe I did it both ways, looking at all</p> <p>8 or serous. In my initial draft, I focused a little</p> <p>9 more on serous, but I also did it all.</p> <p>10 Q. In your amended report, the July 2021</p> <p>11 report, you've changed your systematic review, the</p> <p>12 one that you did for the MDL plaintiff lawyers, from</p> <p>13 looking at or focusing on invasive serous ovarian</p> <p>14 cancer to looking at or including all ovarian</p> <p>15 cancer --</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 BY MR. ZELLERS:</p> <p>18 Q. -- is that correct?</p> <p>19 A. No, I don't think that's correct. I think</p> <p>20 in both cases I looked at it both ways. In the</p> <p>21 subsequent report, I focused a little more on all,</p> <p>22 and on the initial I focused a little more on serous.</p> <p>23 Q. Well, I've got some questions for you, and</p> <p>24 so when we get to that, then I will ask those</p> <p>25 questions.</p>	<p style="text-align: right;">Page 52</p> <p>1 the group that I think you would have the most</p> <p>2 consistent exposure, and it's the group that I think</p> <p>3 would have the highest risk of ovarian cancer. So,</p> <p>4 in my mind, that was the most precise exposure.</p> <p>5 And one of the criticism that I have of a</p> <p>6 lot of publications, is they use ever exposure, and I</p> <p>7 think that's very nonspecific. So focusing on daily</p> <p>8 users was something I thought was very important.</p> <p>9 Q. You were trying to find a set of criteria</p> <p>10 that you could fit studies that had been done into</p> <p>11 for the purpose of doing your unpublished study</p> <p>12 meta-analysis?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 THE WITNESS: I wanted to summarize what's</p> <p>15 been published on frequent users.</p> <p>16 BY MR. ZELLERS:</p> <p>17 Q. You believe that there were a group of</p> <p>18 studies that looked at frequent use, and that was at</p> <p>19 least part of your thinking for using that as a</p> <p>20 criterion for your study; correct?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. Why many times a week?</p> <p>23 A. My understanding is that, I think from</p> <p>24 papers that Cramer has published, is that the most</p> <p>25 frequent use is daily talcum powder.</p>
<p style="text-align: right;">Page 51</p> <p>1 The communication that we're looking at</p> <p>2 here, page 791, Exhibit 4, this was intended to be a</p> <p>3 list of inclusion/exclusion criteria for your</p> <p>4 unpublished study; correct?</p> <p>5 A. Technically, this was a list of that</p> <p>6 research letter, which you have made a distinction</p> <p>7 between the research letter and the unpublished</p> <p>8 study. So this is from January 16th, we were working</p> <p>9 on the research letter.</p> <p>10 Q. Did this become the inclusion/exclusion</p> <p>11 criteria for your unpublished study?</p> <p>12 A. I think this would have been the first draft</p> <p>13 of that. But in looking at it, there are -- those</p> <p>14 have changed a little bit over time.</p> <p>15 Q. Can I find, if I look to your draft report,</p> <p>16 your draft unpublished study, can I see what you</p> <p>17 eventually arrived at for inclusion and exclusion</p> <p>18 criteria?</p> <p>19 A. I think you can find it there. I think you</p> <p>20 also can find it in the published protocol.</p> <p>21 Q. Why were you focused on frequency of talcum</p> <p>22 powder usage?</p> <p>23 A. So that is something that has not changed.</p> <p>24 I think that that's the most consistent group of</p> <p>25 assessment, that women who use talcum powder daily is</p>	<p style="text-align: right;">Page 53</p> <p>1 Some women use talcum powder only during</p> <p>2 some months of the year, and other women might use it</p> <p>3 only during certain days of their menstrual cycle,</p> <p>4 but the most common group is using it daily. I was</p> <p>5 trying to approximate the group that used it daily.</p> <p>6 I thought users who used it several times a week</p> <p>7 would be the way to distinguish women who were</p> <p>8 occasional users from women who were regular,</p> <p>9 habitual users.</p> <p>10 Q. Why limit it to perineal use?</p> <p>11 A. I think that, again, I wanted to get a group</p> <p>12 that we were studying that was the most consistently</p> <p>13 described, and perineal was probably the most</p> <p>14 consistent definition.</p> <p>15 It also seemed to me to be a group that both</p> <p>16 is consistent, but I'd expect that to have the most</p> <p>17 data points and the most studies and for it to be a</p> <p>18 relatively intense exposure, and, therefore, was</p> <p>19 likely the group that would have the greatest risk of</p> <p>20 cancer.</p> <p>21 Q. Looking at, again, 791 and your statement,</p> <p>22 "I think we should include all ovarian cancer and, if</p> <p>23 we can, limit to serous," would you agree that it is</p> <p>24 important to look at, in evaluating this issue,</p> <p>25 different subtypes of ovarian cancer?</p>

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<p>1 A. I'm not so much sure it's focused on whether 2 it's important to as much as what data are available. 3 And serous is the most common cancer type, 4 and so it just, by the nature of how you find enough 5 women to study, it would be easiest to study serous. 6 Q. There's less data on some of the ovarian 7 cancer subtypes, such as clear cell or mucinous or 8 endometrioid; correct? 9 A. I think partly it's that, absolutely. I 10 think partly mucinous in particular is -- is an area 11 of diagnosis that's changed a bit over time. Our 12 understanding of what's the histology of mucinous, it 13 may be in some cases ovarian cancer called mucinous 14 really reflect GI cancers that are misclassified 15 mucinous. 16 So I think mucinous is a type that is 17 particularly problematic, and the other types are 18 particularly uncommon. 19 Q. Are you expressing any expert opinions in 20 this case as to a causal relationship between genital 21 talcum powder use and mucinous ovarian cancer? 22 A. I think the publications are most compelling 23 for serous, and that's how I start my expert report. 24 I think the data for other cancer types, I 25 have less precision about my estimate, but I think</p>	<p>1 recall generally contacting other researchers in this 2 area? 3 A. Yes, I do. 4 Q. You contacted Dr. Cramer in connection with 5 your work on the unpublished study; is that right? 6 A. Yes. 7 Q. How did you communicate with Dr. Cramer? 8 A. I sent an email. 9 Q. Did he respond? 10 A. He did. 11 Q. What did you ask of Dr. Cramer? 12 A. He has published a lot on this topic. We 13 wanted to include his publications. And for most of 14 them I could. But one of his early publications he 15 didn't publish on frequent users, and so I asked him 16 if he had any unpublished data to share. 17 Q. What was his response? 18 A. That he didn't. He didn't have access to 19 those data any longer. 20 Q. Do you recall any other discussions with 21 Dr. Cramer relating to your work on the unpublished 22 study? 23 A. I do not remember any other -- any other 24 topics of conversation. 25 Q. Were your communications by email, by text,</p>
Page 55	Page 57
<p>1 they are associated with ovarian cancer, and probably 2 the association is slightly less. 3 Q. And you're making a distinction, as I 4 understand it, between an association and causation, 5 correct, at least in terms of the data available? 6 A. No. I think that for ovarian cancer, 7 there's a distinction between the association, which 8 has to do with the epidemiologic data, and causation, 9 which takes a whole lot of other factors into 10 account. 11 Q. I do want to ask you about that, and 12 particularly in relationship to your amended report, 13 but let me ask you a few more questions here about 14 the document production. 15 MS. O'DELL: Can we have a quick bathroom 16 break? You can finish this question, or whenever you 17 want to stop -- 18 MR. ZELLERS: Let's go off the record. 19 THE REPORTER: We are off the record. 20 (Off the record at 10:47 a.m. Back on the 21 record at 10:52 a.m.) 22 BY MR. ZELLERS: 23 Q. Dr. Smith-Bindman, there's some mention in 24 the document productions of various researchers you 25 contacted during the course of your work. Do you</p>	<p>1 by phone, or some combination? 2 A. By email. 3 Q. Did you have any phone conversations with 4 Dr. Cramer? 5 A. No, I did not. 6 Q. Did you contact Dr. Schildkraut in 7 connection with your work on the unpublished study? 8 A. I believe I did. 9 Q. Did she respond? 10 A. I -- I don't believe she did. There were 11 two women I reached out to, I think Anne Wu and 12 Dr. Schildkraut, and one of them responded and one of 13 them didn't. 14 Q. Do you recall what you asked 15 Dr. Schildkraut? 16 A. I would have asked each of those authors for 17 data on frequent users that wasn't published and 18 included in their work. 19 Q. Any phone call with Dr. Schildkraut? 20 A. No. 21 Q. Any phone call with Dr. Wu? 22 A. No. 23 Q. Were your communications with Dr. Wu via 24 email? 25 A. Yes.</p>

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<p>1 Q. Did Dr. Wu respond to your request?</p> <p>2 A. My recollection is one of them responded. I</p> <p>3 think it was Dr. Wu, who suggested that they thought</p> <p>4 they had data, but that they were not able to send</p> <p>5 it.</p> <p>6 Q. Why was Dr. Wu not able to send the data</p> <p>7 that she had, if you recall?</p> <p>8 A. I believe I requested at the time that we</p> <p>9 needed it within the time to respond for the research</p> <p>10 letter in response to O'Brien. So I think she said</p> <p>11 she couldn't respond that quickly.</p> <p>12 But I believe I also reached out to her</p> <p>13 later, and she also didn't provide the data. I think</p> <p>14 she didn't respond at that point.</p> <p>15 Q. Were all of your communications with Dr. Wu</p> <p>16 by email?</p> <p>17 A. Yes.</p> <p>18 Q. Any other researchers in this area that you</p> <p>19 communicated with?</p> <p>20 A. Yes. We reached out to Dr. O'Brien.</p> <p>21 Q. Anyone else?</p> <p>22 A. I believe I reached out to someone else, but</p> <p>23 we were referred to Dr. O'Brien. So I don't remember</p> <p>24 who the original person was. But I think it was a</p> <p>25 researcher related to the sister study, and that we</p>	<p>1 reproductive tract, that was a subgroup in the</p> <p>2 O'Brien paper; correct?</p> <p>3 A. Yes.</p> <p>4 Q. Take a look at pages 769 to 770, but</p> <p>5 particularly page 769 of Exhibit 4.</p> <p>6 A. Yes.</p> <p>7 Q. This, on page 769 --</p> <p>8 A. Yes.</p> <p>9 Q. -- describes your communication with Sean on</p> <p>10 this; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. So February 5th, 2020, Sean is suggesting or</p> <p>13 asking you, "Should we use all women or only with</p> <p>14 open tubes from the O'Brien paper"; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. You then -- or strike that.</p> <p>17 Sean states, "Women with patent reproductive</p> <p>18 tracts," and you responded, "I took all women."</p> <p>19 What did you mean when you said, "I took all</p> <p>20 women."</p> <p>21 A. I believe what this correspondence had to do</p> <p>22 with is both a definition of what to use but also</p> <p>23 comparing the data that we extracted.</p> <p>24 So Sean up top says, "I used patent</p> <p>25 reproductive tracts," that most of our studies</p>
Page 59	Page 61
<p>1 were referred to Dr. O'Brien, who basically oversaw</p> <p>2 those data as well.</p> <p>3 Q. All of these requests, to the best of your</p> <p>4 recollection, related to any unpublished data</p> <p>5 regarding frequent users; correct?</p> <p>6 A. Yes.</p> <p>7 Q. In early February of 2020, you and</p> <p>8 Dr. Woolen discussed the O'Brien paper and whether to</p> <p>9 use the data from all women or for patent</p> <p>10 reproductive tract; is that your recollection?</p> <p>11 A. Yes.</p> <p>12 Q. How did you end up on that?</p> <p>13 A. I remember raising the question, and Sean</p> <p>14 decided to use it for women with openly productive</p> <p>15 tracts. And his argument was that many of the</p> <p>16 studies we have read only included women with open</p> <p>17 reproductive tracts, so that definition would be most</p> <p>18 consistent with and harmonious with the other studies</p> <p>19 that we included.</p> <p>20 Q. Is that what ultimately you did with respect</p> <p>21 to the unpublished study?</p> <p>22 A. That is what we used as our primary data</p> <p>23 point. But we show the data in the unpublished paper</p> <p>24 so people can see the difference.</p> <p>25 Q. You would agree that women with a patent</p>	<p>1 excluded the visual tubal litigation. And then what</p> <p>2 was implicit somewhere else in this discussion is</p> <p>3 that there was some disagreement with our numbers,</p> <p>4 and I said I took all women.</p> <p>5 Q. Do you recall in the unpublished study what</p> <p>6 the -- well, strike that.</p> <p>7 Do you recall in the unpublished study that</p> <p>8 when you looked at and considered women from O'Brien</p> <p>9 with patent reproductive tract, that subgroup, that</p> <p>10 you got a higher relative risk of the association</p> <p>11 between talcum powder use and ovarian cancer than if</p> <p>12 you had used the entire data set from O'Brien</p> <p>13 relating to all women?</p> <p>14 A. So in the published O'Brien paper -- that is</p> <p>15 the location of that information, is in the published</p> <p>16 O'Brien paper, open tubes or not open tubes.</p> <p>17 In our unpublished systematic review, which</p> <p>18 is what I think you're asking about, we got data that</p> <p>19 was not published in O'Brien. And for those data, I</p> <p>20 don't know that I know the difference between whether</p> <p>21 it's open or all.</p> <p>22 So I know in the published paper that women</p> <p>23 who had open reproductive tracts have a higher odds</p> <p>24 than women, all women. In the unpublished data,</p> <p>25 where we got new data, I'm not sure that I know what</p>

<p style="text-align: right;">Page 62</p> <p>1 that result is. By that time we had decided to use</p> <p>2 women with open reproductive tracts.</p> <p>3 Q. If that calculation had been done from the</p> <p>4 unpublished data, would it be contained within the</p> <p>5 documents that were produced in response to</p> <p>6 Deposition Exhibit 1?</p> <p>7 A. Yes.</p> <p>8 Q. In your amended MDL report, you cite the</p> <p>9 patent data from O'Brien; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. Do you recall in early February that you</p> <p>12 emailed Dr. Woolen a draft of the research letter?</p> <p>13 Take a look, if you will, at Deposition</p> <p>14 Exhibit 5, and specifically pages 1021 to 1023.</p> <p>15 A. Yes.</p> <p>16 Q. On February 10th of 2020, you send --</p> <p>17 A. Yes.</p> <p>18 Q. -- to Dr. Woolen a draft of the research</p> <p>19 letter; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. If we look at page 1022, from Deposition</p> <p>22 Exhibit 5 --</p> <p>23 A. Yes --</p> <p>24 MS. O'DELL: Dr. Smith-Bindman, would you</p> <p>25 let him finish his questions instead of saying "Yes."</p>	<p style="text-align: right;">Page 64</p> <p>1 A. So when I commented on to Sean that this</p> <p>2 draft is very -- I made some edits. I apologize, I</p> <p>3 didn't use track changes. So the initial draft was</p> <p>4 made by Sean, and I made some edits to it.</p> <p>5 I don't remember, that sentence that you're</p> <p>6 asking about, if it was originally written by Sean or</p> <p>7 by me.</p> <p>8 Q. Could it have been written by counsel for</p> <p>9 the plaintiffs in the MDL litigation?</p> <p>10 A. Absolutely not.</p> <p>11 Q. Did -- strike that.</p> <p>12 You're -- withdraw that.</p> <p>13 Did the counsel for the plaintiffs in the</p> <p>14 talcum powder litigation review any draft of this</p> <p>15 research letter?</p> <p>16 A. They did not.</p> <p>17 Q. Did you ask for any comments from any of</p> <p>18 plaintiffs' counsel?</p> <p>19 A. I did not.</p> <p>20 Q. When you or Sean refer to testimony in</p> <p>21 brackets, what testimony are you referring to?</p> <p>22 A. I believe that was testimony from Longo,</p> <p>23 that I was familiar with as part of my work in talc,</p> <p>24 that showed the prevalence of fibrous talc and</p> <p>25 asbestos in the talc samples.</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: Sorry. I apologize.</p> <p>2 BY MR. ZELLERS:</p> <p>3 Q. The first sentence of the research letter</p> <p>4 states:</p> <p>5 (Reading) There is growing interest</p> <p>6 in understanding the association</p> <p>7 between talcum powder products and</p> <p>8 ovarian cancer driven by several</p> <p>9 multi-litigant lawsuits,</p> <p>10 billion-dollar jury settlements,</p> <p>11 paren, New York Times, closed</p> <p>12 paren, and growing evidence that</p> <p>13 most samples of talcum powder,</p> <p>14 paren, testimony, closed paren,</p> <p>15 including samples from 2018, paren,</p> <p>16 FDA, closed paren, contain</p> <p>17 asbestos, a Group 1 carcinogen,</p> <p>18 paren, IRAC (end of reading) --</p> <p>19 But I assume you meant IARC; correct?</p> <p>20 A. IARC.</p> <p>21 MS. O'DELL: Object to form.</p> <p>22 BY MR. ZELLERS:</p> <p>23 Q. IARC, yes. Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Who drafted that language?</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Have you ever, in any research publications,</p> <p>2 cited the testimony from a paid expert in litigation?</p> <p>3 A. I have not.</p> <p>4 Q. And you understood in the beginning that</p> <p>5 that might be problematic, both for Sean, Dr. Woolen,</p> <p>6 and for JAMA, or any of the publications you may</p> <p>7 submit this research letter to?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 THE WITNESS: They are public documents, and</p> <p>10 so I -- I don't think there's a problem citing public</p> <p>11 documents. I have cited public documents that are</p> <p>12 unpublished, often called grey literature, by</p> <p>13 scientists before. I had never cited testimony, but</p> <p>14 I have cited unpublished work that I thought would be</p> <p>15 okay to cite.</p> <p>16 BY MR. ZELLERS:</p> <p>17 Q. Have you cited in any research publication,</p> <p>18 that you have prepared, reports or testimony from</p> <p>19 paid experts in litigation?</p> <p>20 A. I have not.</p> <p>21 Q. On February 18th of 2020, you emailed</p> <p>22 Dr. Bauchner, the Editor-in-Chief of JAMA, a copy of</p> <p>23 your research letter; is that right?</p> <p>24 A. I'm sorry. You told me the date but not the</p> <p>25 page number.</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. Well, go back, if you will, to Exhibit 4, 2 and take a look at page 715. 3 A. Yes. 4 Q. You told him you were sending your short 5 research letter. And then you continued and told 6 Dr. Bauchner: 7 (Reading) Something that O'Brien 8 said in her systematic review on 9 talc was wrong. About in her 10 introduction was that asbestos has 11 been removed from talc since the 12 1970s. In fact, most current 13 samples of baby powder are 14 contaminated with asbestos, 15 including samples tested by the FDA 16 last year that resulted in a recall 17 (end of reading). 18 That's your language; is that right? 19 A. Yes, it is. 20 Q. What's the basis for that statement? 21 A. Which part of the statement? 22 Q. Well, all of the statement, so specifically 23 "that asbestos has been removed from talc since the 24 1970s, and that Dr. O'Brien was wrong about that." 25 A. So Dr. O'Brien cited something that people</p>	<p style="text-align: right;">Page 68</p> <p>1 THE WITNESS: I have seen testing results 2 from the Johnson & Johnson side. 3 BY MR. ZELLERS: 4 Q. My question, though, is, have you seen -- 5 withdraw that. 6 Do you understand Dr. Longo and Dr. Rigler, 7 they are paid experts for the plaintiffs in 8 litigation; correct? 9 A. Yes. 10 Q. Have you seen the experts who have analyzed 11 these issues and who are opining in response or on 12 behalf of defendants to Drs. Longo and Rigler? 13 MS. O'DELL: Object to form. 14 THE WITNESS: Yes. 15 BY MR. ZELLERS: 16 Q. What expert reports have you seen? 17 A. I don't remember the names of them, but I 18 asked early on for the lawyers to show me information 19 that shows that specimens are negative. 20 BY MR. ZELLERS: 21 Q. My question, though, is what expert reports 22 for defense asbestos experts have you seen and 23 reviewed? 24 MS. O'DELL: Objection. I think the doctor 25 was cut off on her answer.</p>
<p style="text-align: right;">Page 67</p> <p>1 cite frequently, that says the manufacturers have 2 created a talcum powder product that doesn't have 3 asbestos. That's cited a lot. And I had seen a lot 4 of testing that shows that that's not true. 5 Q. Have you seen the testing that shows an 6 absence of asbestos from the Johnson's Baby Powder? 7 MS. O'DELL: Object to the form. 8 THE WITNESS: I have seen a lot of testing 9 results. Some shows there's asbestos in some 10 samples, some shows there's not asbestos in some 11 samples. 12 BY MR. ZELLERS: 13 Q. You are not an expert in terms of looking at 14 a sample of talcum powder and determining whether or 15 not asbestos is present; correct? 16 A. No, I'm not an expert. 17 Q. You're relying, at least in part, on 18 Dr. Longo and his litigation reports that are 19 referenced in your Materials Considered List? 20 A. Yes. 21 Q. Have you looked at or reviewed the defense 22 experts that respond to Dr. Longo and take the other 23 side, in terms of stating that there is no asbestos 24 contamination in the Johnson's Baby Powder? 25 MS. O'DELL: Object to the form.</p>	<p style="text-align: right;">Page 69</p> <p>1 THE WITNESS: I don't remember the names of 2 those reports. I have seen reports that were for 3 Johnson & Johnson that showed that specimens are not 4 contaminated with asbestos. 5 BY MR. ZELLERS: 6 Q. My question, though, is: Have you seen 7 litigation reports from the defense experts relating 8 to whether or not there is asbestos in the Johnson's 9 Baby Powder? 10 MS. O'DELL: Objection. Asked and answered. 11 THE WITNESS: I have seen reports of -- 12 BY MR. ZELLERS: 13 Q. Would those expert litigation reports be on 14 your Reliance List or your Sources Considered List? 15 A. I believe they would be, yes. 16 Q. You would expect them to be; correct? 17 A. Yes. 18 Q. All right. Is it fair that you, from a 19 substantive expert standpoint, cannot opine on 20 whether the defense experts are correct or the 21 plaintiff experts are correct as to whether or not 22 asbestos has been found in samples of Johnson's Baby 23 Powder? 24 MS. O'DELL: Objection to form. 25 THE WITNESS: I'm not sure of what the</p>

<p style="text-align: right;">Page 70</p> <p>1 question is. I have seen a lot of information about</p> <p>2 testing, including from the FDA, from experts on both</p> <p>3 sides, and have an opinion about whether that</p> <p>4 evidence shows that there is talc fibers and asbestos</p> <p>5 in Johnson & Johnson.</p> <p>6 BY MR. ZELLERS:</p> <p>7 Q. Do you believe that you have sufficient</p> <p>8 expertise to make that decision as to whether the</p> <p>9 plaintiff experts are correct or the defense experts</p> <p>10 are correct, as to whether or not there is or has --</p> <p>11 asbestos has been found in samples of Johnson's Baby</p> <p>12 Powder?</p> <p>13 MS. O'DELL: Objection to form.</p> <p>14 THE WITNESS: I am not a geologist, but I</p> <p>15 have read and seen a lot of evidence, including from</p> <p>16 the FDA, that samples, recent samples, that has</p> <p>17 weighed heavily on my opinion, that there is</p> <p>18 contamination in current Johnson & Johnson products.</p> <p>19 BY MR. ZELLERS:</p> <p>20 Q. What information did you have as to samples</p> <p>21 tested by the FDA as of February 18th of 2020?</p> <p>22 A. I know that they sampled, and that there was</p> <p>23 enough evidence of fibers in asbestos that they</p> <p>24 recalled some Johnson & Johnson lots of samples.</p> <p>25 Q. And you believe that had occurred by</p>	<p style="text-align: right;">Page 72</p> <p>1 Green Journal, as the next two (end</p> <p>2 of reading).</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Who is the OB that you contacted?</p> <p>6 A. I believe that I got that recommendation</p> <p>7 from a faculty member at UCSF named Sawaya.</p> <p>8 Q. And I understand -- strike that.</p> <p>9 Who, though, was the OB that you contacted</p> <p>10 or communicated with, if you recall?</p> <p>11 A. Sawaya is an obstetric/gynecologist at UCSF.</p> <p>12 Q. You went to him and asked for suggestions as</p> <p>13 to journals that might be interested in the</p> <p>14 publication; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And I have seen from the document production</p> <p>17 that you had submitted the paper to other</p> <p>18 publications, but at least as of May 2021 had not</p> <p>19 been successful in publishing it; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Today have you been successful in publishing</p> <p>22 your unpublished study?</p> <p>23 MS. O'DELL: Object to the form.</p> <p>24 THE WITNESS: It has not been published.</p> <p>25 ///</p>
<p style="text-align: right;">Page 71</p> <p>1 February 18th of 2020?</p> <p>2 A. I do. I don't remember the dates exactly,</p> <p>3 but I do.</p> <p>4 Q. Where did you see the information about what</p> <p>5 testing the FDA had done? Is that information that</p> <p>6 was provided to you by plaintiffs' counsel, or is it</p> <p>7 information you obtained from some other source?</p> <p>8 A. My recollection is that that made it to the</p> <p>9 popular press. So --</p> <p>10 Q. Thank you.</p> <p>11 In May of 2021, you and Dr. Woolen had a</p> <p>12 discussion about journals that may be contacted for</p> <p>13 purposes of submitting your unpublished study for</p> <p>14 publication. Do you generally recall discussions</p> <p>15 with Dr. Woolen about that?</p> <p>16 A. Yes.</p> <p>17 Q. Let me be specific. Go to page 342 in</p> <p>18 Deposition Exhibit 4.</p> <p>19 A. 342, yes.</p> <p>20 Q. Do you see that?</p> <p>21 So on May 14th of 2021, you emailed</p> <p>22 Dr. Woolen stating:</p> <p>23 (Reading) The OBI contact had</p> <p>24 suggested either obstetric/oncology</p> <p>25 or obstetrics and gynecology, the</p>	<p style="text-align: right;">Page 73</p> <p>1 BY MR. ZELLERS:</p> <p>2 Q. Is it currently under submission to a</p> <p>3 journal?</p> <p>4 A. Yes, it is.</p> <p>5 Q. More than one journal or just one journal?</p> <p>6 A. Just one.</p> <p>7 Q. What journal is the publication under</p> <p>8 submission to?</p> <p>9 A. The "Journal of General Internal Medicine."</p> <p>10 Q. When was the paper submitted to the "Journal</p> <p>11 of General Internal Medicine"?</p> <p>12 A. Relatively recently. In the last couple of</p> <p>13 weeks.</p> <p>14 Q. Whose suggestion was it that you submit the</p> <p>15 journal to the -- did you say --</p> <p>16 A. JGIM, J-G-I-M. JGIM, "Journal of General</p> <p>17 Internal Medicine." That was my idea.</p> <p>18 Q. You had actually submitted it to the</p> <p>19 "Journal of General Internal Medicine" previously; is</p> <p>20 that right?</p> <p>21 A. It was referred to that journal, which is</p> <p>22 not quite the same as submitting it to that directly.</p> <p>23 But yes.</p> <p>24 Q. Had your unpublished study been rejected</p> <p>25 initially by the "Journal of General Internal</p>

<p style="text-align: right;">Page 74</p> <p>1 Medicine"?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall receiving a letter with</p> <p>4 respect to that?</p> <p>5 A. Yes.</p> <p>6 Q. Were there comments from the journal or</p> <p>7 reviewers at the journal as to why they were not</p> <p>8 accepting your paper?</p> <p>9 A. So the paper had been submitted to a</p> <p>10 different journal called, "Annals of Internal</p> <p>11 Medicine." I don't know the relationship between the</p> <p>12 "Annals of Internal Medicine." But "Annals of</p> <p>13 Internal Medicine" sent the paper out for review. It</p> <p>14 was reviewed, rejected.</p> <p>15 We got copies of those reviews, and it said,</p> <p>16 and "We're forwarding it to the "Journal of General</p> <p>17 Internal Medicine."</p> <p>18 We then basically heard, very soon</p> <p>19 thereafter, from the "Journal of General Internal</p> <p>20 Medicine" that they weren't interested in the paper.</p> <p>21 They had gotten the reviews.</p> <p>22 But I thought what they said was that if the</p> <p>23 paper would be revised, they would be willing to look</p> <p>24 at a revision. And I took that as -- as meaning it</p> <p>25 might be worth sending it there, given the revisions</p>	<p style="text-align: right;">Page 76</p> <p>1 assess the quality of the studies that would be</p> <p>2 included in your unpublished study; is that right?</p> <p>3 A. I'm sorry. What page are you on?</p> <p>4 Q. I'm on page 618.</p> <p>5 A. I'm not sure what you are referring to. I'm</p> <p>6 sorry.</p> <p>7 Q. Well, did you write to Dr. Woolen on</p> <p>8 April 9th of 2020:</p> <p>9 (Reading) I can work on assessing</p> <p>10 study quality. I printed out all</p> <p>11 articles, but can obviously do</p> <p>12 online (end of reading)?</p> <p>13 A. Yes.</p> <p>14 Q. And those related to the quality of the</p> <p>15 studies included or to be included in your</p> <p>16 unpublished study; correct?</p> <p>17 A. I was saying that I could do -- I could fill</p> <p>18 out the forms for the Ottawa-Newcastle score, which</p> <p>19 is a quality assessment. I was saying that I can do</p> <p>20 that work, yes.</p> <p>21 Q. You told Dr. Woolen:</p> <p>22 (Reading) That being said, I have</p> <p>23 never abstracted data for this.</p> <p>24 Should we have a call to make sure</p> <p>25 I am doing correctly (end of</p>
<p style="text-align: right;">Page 75</p> <p>1 we did, in response to the "Annals of Internal</p> <p>2 Medicine" critique.</p> <p>3 Q. Do you recall when your unpublished study</p> <p>4 was sent to the "Journal of General Internal</p> <p>5 Medicine" the second time?</p> <p>6 A. Recently. Within the last two weeks.</p> <p>7 Q. Have you received any response?</p> <p>8 A. Not yet.</p> <p>9 Q. If you -- do you recall having a discussion</p> <p>10 with Dr. Woolen back in April of 2020 about needing</p> <p>11 to assess the quality of the studies that were being</p> <p>12 included, either in your research letter or by now --</p> <p>13 so April of 2020, you were on to your -- preparing</p> <p>14 your unpublished study; is that right?</p> <p>15 A. I don't remember the date, but we discussed</p> <p>16 doing a quality assessment of the included studies.</p> <p>17 Q. Take a look, if you will, at page 618 from</p> <p>18 Deposition Exhibit 4.</p> <p>19 A. Yes.</p> <p>20 Q. This is a communication between Dr. Woolen</p> <p>21 and yourself; is that right? And then below that is</p> <p>22 an email that you sent to Dr. Woolen.</p> <p>23 A. Yes.</p> <p>24 Q. And you state -- well, withdraw.</p> <p>25 Dr. Woolen said that it will be important to</p>	<p style="text-align: right;">Page 77</p> <p>1 reading)?</p> <p>2 A. Yes.</p> <p>3 Q. Do I understand that you had never used the</p> <p>4 Newcastle-Ottawa Scale previously?</p> <p>5 A. That's correct.</p> <p>6 Q. And -- withdraw.</p> <p>7 Dr. Woolen showed you or walked you through</p> <p>8 how to use it?</p> <p>9 A. Yes.</p> <p>10 Q. Had you ever assessed a study quality using</p> <p>11 a tool like the Newcastle-Ottawa Scale before April</p> <p>12 of 2020?</p> <p>13 A. I have done a bunch of systematic reviews</p> <p>14 and have assessed study quality, where I basically</p> <p>15 lay out a checklist of things I'm going to require</p> <p>16 for the study to be included, and I require only</p> <p>17 inclusion of studies that meet those inclusion or</p> <p>18 exclusion criteria. So that had a complete</p> <p>19 ascertainment of outcomes on the checkmark. They had</p> <p>20 to have two years of description of the cohorts.</p> <p>21 So I had done that work. I had never used a</p> <p>22 quantitative scale which assigns points for each of</p> <p>23 those features before.</p> <p>24 Q. Previously what you had done --</p> <p>25 MS. O'DELL: Excuse me. Would you let</p>

<p style="text-align: right;">Page 78</p> <p>1 Mr. Lapinski back into the Zoom, please. 2 (Discussion held off the record.) 3 MR. ZELLERS: Back on. 4 Q. Dr. Smith-Bindman, my understanding is 5 before April of 2020, you had your own formula -- and 6 formula is my word -- but your own way of assessing 7 the quality of studies; is that right? 8 A. That's correct. 9 Q. This is the first time that you used an 10 outside tool, such as the Newcastle-Ottawa Scale; is 11 that fair? 12 A. That is correct. 13 Q. What did you do or how did you assess the 14 quality of studies that you evaluated in your Amended 15 Expert Report? And let me withdraw. 16 Did you assess the quality of the studies 17 that you evaluated in your Amended Expert Report? 18 A. I required studies to describe explicitly 19 the focus on the frequency of talcum powder use. I 20 did not explicitly score the study qualities, from my 21 own review, in the amended report. 22 Q. In May of 2021 -- so we're now moving 23 ahead -- Dr. Woolen emailed you stating that he had 24 updated the Excel spreadsheet and noted that some 25 studies included non-perineal talc use, such as</p>	<p style="text-align: right;">Page 80</p> <p>1 And then your email says "is," but it should 2 be, "if we explain." 3 A. Yes. 4 Q. All right. And that was, you know, your 5 response; is that right? 6 A. Yes. 7 Q. You write: 8 (Reading) Wu doesn't specify in the 9 high-use category whether that is 10 perineal or non-perineal or both, 11 but I think I would include it 12 anyway and like your idea of a 13 sensitivity analysis (end of 14 reading). 15 Is that what you told Dr. Woolen? 16 MS. O'DELL: What page are you on? 17 THE WITNESS: Yeah, I don't see that. 18 MR. ZELLERS: Look on page 307. 19 MS. O'DELL: Excuse me. 20 MR. ZELLERS: Sure. 21 Q. Do you see that? 22 A. I do. 23 Q. That was your response to Dr. Woolen; is 24 that right? 25 A. So what Sean says above is that we would</p>
<p style="text-align: right;">Page 79</p> <p>1 sanitary napkins, diaphragms, et cetera, in the 2 frequency calculation, and that Dr. Wu appears to 3 have averaged genital and non-genital use in the 4 frequency information. 5 Do you recall that generally? 6 A. I don't. But -- 7 Q. Well, take a look, then, at pages 308 and 8 309 in Deposition Exhibit 4. 9 A. Okay. 10 Q. So do you see that general discussion? 11 And specifically I'm looking at the May 26, 12 2021, email from Dr. Woolen to you, talking about: 13 (Reading) A few of the studies 14 include forms of non-perineal talc, 15 and then also that who appears to 16 have genital and non-genital use 17 averaged in with the frequency 18 information. Author did not 19 separate out genital, slash, 20 perineal only (end of reading). 21 A. Yes. 22 Q. You responded that: 23 (Reading) It's okay to have 24 inclusion of a case or two that 25 don't belong (end of reading).</p>	<p style="text-align: right;">Page 81</p> <p>1 basically do a sensitivity analysis, excluding Wu 2 from the results. So we would do it both ways, 3 including and excluding Wu, to show the impact of 4 that. And I said that I thought that was reasonable. 5 "After-bath," it was defined as "After-bath 6 substance to peritoneum" as a different choice, so I 7 thought it was reasonable. So I liked his idea of 8 doing the analysis both ways, including and 9 excluding. I believe that's how we ended up doing 10 it. 11 Q. Your understanding is you did do a 12 sensitivity analysis; is that right? 13 A. I believe so. 14 Q. If a sensitivity analysis was done, then you 15 would expect it to be included in the documents that 16 were produced in response to Exhibit 1; right? 17 A. Yes. 18 Q. Take a look at page 791, on page -- strike 19 that. Page 791 of Exhibit 4. 20 A. Yes. 21 Q. So one of your inclusion criteria, or at 22 least in this discussion with Dr. Woolen, was 23 perineal type of exposure reported separately from 24 other exposures; is that right? 25 A. Yes. We discussed that this was the</p>

<p style="text-align: right;">Page 82</p> <p>1 inclusion for the research letter. But yes.</p> <p>2 Q. And I believe that we also established that,</p> <p>3 at least this was the start of the inclusion and</p> <p>4 exclusion of criteria for the study itself, the</p> <p>5 unpublished study?</p> <p>6 A. Yes.</p> <p>7 Q. In fact, was perineal type of exposure</p> <p>8 reported separately from other exposures, was that an</p> <p>9 inclusion criteria ultimately for the unpublished</p> <p>10 study?</p> <p>11 A. Yes.</p> <p>12 Q. The Wu paper, that we just referenced,</p> <p>13 doesn't meet that inclusion criterion; correct?</p> <p>14 A. No. I disagree. I think it meets it for</p> <p>15 almost all the patients, but in one group you</p> <p>16 couldn't tell. And it seemed that it was including</p> <p>17 it in perineal, but, you know, some part of it was</p> <p>18 not certain. So there was -- it seemed to me, by</p> <p>19 that exchange, that there was a patient or two where</p> <p>20 it was ambiguous, but that the vast majority were</p> <p>21 well described.</p> <p>22 So I think that was the discussion, that it</p> <p>23 looks like perineal, but there's a little bit of</p> <p>24 overlap. Let's not -- let's explain that and then</p> <p>25 include the sensitivity analysis, that seems -- if</p>	<p style="text-align: right;">Page 84</p> <p>1 The Wu paper had the highest risk ratio of</p> <p>2 2.08 --</p> <p>3 A. Yes.</p> <p>4 Q. -- of all the studies you included in your</p> <p>5 unpublished study; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. In August of 2021 -- so a couple of months</p> <p>8 ago -- Dr. Woolen emailed you stating:</p> <p>9 (Reading) I removed all content</p> <p>10 from the litigation and news media</p> <p>11 because I think we will get called</p> <p>12 out from our litigation bias (end</p> <p>13 of reading).</p> <p>14 And that probably should be "for our</p> <p>15 litigation bias."</p> <p>16 (Reading) I tried to stick to the</p> <p>17 science as much as possible.</p> <p>18 Luckily, a newer basic science</p> <p>19 paper found talc and asbestosis in</p> <p>20 some ovarian cancer cases, so I</p> <p>21 highlighted that in the discussion</p> <p>22 (end of reading).</p> <p>23 MS. O'DELL: What page are you on?</p> <p>24 MR. ZELLERS: Well, if you need to look at</p> <p>25 it, and for the record, it's page 227.</p>
<p style="text-align: right;">Page 83</p> <p>1 that makes a difference. It looks like mostly that</p> <p>2 should be included.</p> <p>3 Q. Dr. Woolen, as we looked at before, said:</p> <p>4 (Reading) Wu appears to have</p> <p>5 genital and nongenital use averaged</p> <p>6 in with the frequency information.</p> <p>7 Author did not separate out</p> <p>8 genital, slash, perineal only (end</p> <p>9 of reading).</p> <p>10 At least that's what Dr. Woolen told you; is</p> <p>11 that right?</p> <p>12 A. I believe you just read it. I don't have</p> <p>13 that in front of me.</p> <p>14 Q. Out of the -- well, let me withdraw.</p> <p>15 Out of the studies in your unpublished</p> <p>16 study, the studies that you looked at for that</p> <p>17 meta-analysis, there were 11 studies, as I recall?</p> <p>18 Does that seem right?</p> <p>19 A. Uh-huh.</p> <p>20 Q. The study with the highest risk ratio of 2.8</p> <p>21 was the Wu study; is that right?</p> <p>22 A. I do not remember, but I'm looking now.</p> <p>23 Q. Well --</p> <p>24 A. You said 2.8?</p> <p>25 Q. I'm sorry. I misspoke.</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. Do you generally recall having that</p> <p>2 discussion with Dr. Woolen?</p> <p>3 A. Yes.</p> <p>4 Q. And one of the problems, at least perceived</p> <p>5 problems with getting your paper published, is the</p> <p>6 litigation bias, or at least perceived litigation</p> <p>7 bias; is that right?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 THE WITNESS: Yes, that is what Sean said.</p> <p>10 BY MR. ZELLERS:</p> <p>11 Q. In both your original MDL report and your</p> <p>12 amended MDL report, your opinion is that talcum</p> <p>13 powder causes ovarian cancer; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And you've done a systematic review both in</p> <p>16 the MDL proceedings, the litigation proceedings, and</p> <p>17 also with respect to your unpublished study; is that</p> <p>18 right?</p> <p>19 A. I'm sorry. Is there a question?</p> <p>20 Q. Yes.</p> <p>21 A. What was the question?</p> <p>22 Q. You did a systematic review, both originally</p> <p>23 in your MDL report and also, at least repeated it</p> <p>24 with some changes in the description, in your amended</p> <p>25 MDL report; correct?</p>

<p style="text-align: right;">Page 86</p> <p>1 MS. O'DELL: Object to the form.</p> <p>2 THE WITNESS: I don't understand the</p> <p>3 distinction you're making. I don't --</p> <p>4 BY MR. ZELLERS:</p> <p>5 Q. I'm asking if you did a systematic review as</p> <p>6 part of your litigation analysis in this case?</p> <p>7 A. I did a systematic review that I describe in</p> <p>8 my expert report. And I worked on a separate piece</p> <p>9 of research with Sean.</p> <p>10 Q. Which you also describe and explain in your</p> <p>11 Amended Expert Report; correct?</p> <p>12 A. I don't describe it except to say that it</p> <p>13 exists. I haven't described it, the content of it.</p> <p>14 MR. ZELLERS: Let's go off the record.</p> <p>15 (Off the record at 11:35 a.m. Back on the</p> <p>16 record at 11:45 a.m.)</p> <p>17 BY MR. ZELLERS:</p> <p>18 Q. Dr. Smith-Bindman, are you ready to</p> <p>19 continue?</p> <p>20 A. Yes, I am.</p> <p>21 Q. Your opinion is that there's an association</p> <p>22 between genital talc use and ovarian cancer; is that</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. In support of your opinion, you've done your</p>	<p style="text-align: right;">Page 88</p> <p>1 BY MR. ZELLERS:</p> <p>2 Q. If you want, Doctor, go to the redline</p> <p>3 version.</p> <p>4 A. Correct.</p> <p>5 Q. So that is Deposition Exhibit 11.</p> <p>6 A. I'm not entirely sure what you're asking me</p> <p>7 to confirm.</p> <p>8 Q. All I'm asking you to say is you changed the</p> <p>9 name from "systematic review" in the original report</p> <p>10 to simply "new review" in the amended report; is that</p> <p>11 right?</p> <p>12 MS. O'DELL: Objection to the form. There</p> <p>13 are additional words there.</p> <p>14 MR. ZELLERS: Well, of course.</p> <p>15 I will withdraw the question.</p> <p>16 Q. Doctor, do you have a memory of changing the</p> <p>17 terminology in your amended report from "systematic</p> <p>18 review" to "new review"?</p> <p>19 A. I do not believe that I did that. I'm</p> <p>20 looking at -- I understand there's a different</p> <p>21 section. But on page 33, 5, it says:</p> <p>22 (Reading) Rationale for and</p> <p>23 explanation of the new systematic</p> <p>24 review (end of reading).</p> <p>25 And then the next section has:</p>
<p style="text-align: right;">Page 87</p> <p>1 systematic review that's described in your MDL</p> <p>2 original report and the amended report; is that</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. And you've also done this unpublished study,</p> <p>6 and the analysis that goes into that; correct?</p> <p>7 A. Yes.</p> <p>8 Q. The systematic review, that's referred to</p> <p>9 generally on pages 33 to 37 of your amended report;</p> <p>10 is that right? The amended report we marked as</p> <p>11 Deposition Exhibit 9.</p> <p>12 A. Yes.</p> <p>13 Q. You changed from your original report, that</p> <p>14 we marked as Exhibit 10, to your amended report, the</p> <p>15 description from "systematic review" to "new review";</p> <p>16 is that right?</p> <p>17 So I'm looking at the title.</p> <p>18 MS. O'DELL: Page 34 of the amended report?</p> <p>19 I'm just making sure.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. ZELLERS:</p> <p>22 Q. Page 34, subsection 6, you state, "New</p> <p>23 review." And that's a change from "systematic</p> <p>24 review"; is that right?</p> <p>25 MS. O'DELL: Object to the form.</p>	<p style="text-align: right;">Page 89</p> <p>1 (Reading) New review quantifying</p> <p>2 association between regular use of</p> <p>3 general talcum powder and</p> <p>4 epithelial ovarian cancer (end of</p> <p>5 reading).</p> <p>6 Q. Doctor, go to page 31 of your original</p> <p>7 report. So you're looking at your original report,</p> <p>8 which we marked as Exhibit 10. Go to page 31.</p> <p>9 Are you on page 31?</p> <p>10 A. At page 31 it says, "New systematic review."</p> <p>11 Q. Exactly. That's your Section 6 heading --</p> <p>12 A. Yes.</p> <p>13 Q. -- "New Systematic Review of Literature</p> <p>14 Quantifying Association Between Regular Frequent</p> <p>15 Genital, paren, Perineal, closed Paren, Talcum Powder</p> <p>16 Products Application and Ovarian Epithelial Cancer</p> <p>17 Risk, With a Focus on Invasive Serous Cancer."</p> <p>18 Did I read that correctly?</p> <p>19 A. I --</p> <p>20 Q. You can't say if I read the title of</p> <p>21 Section 6 on page 31 correctly?</p> <p>22 A. Yes, you read the title correctly.</p> <p>23 Q. All right. Then if we go to your amended</p> <p>24 report --</p> <p>25 A. Yes.</p>

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<p>1 Q. -- Exhibit 9, page 34, you change the</p> <p>2 description of section 7, "New Review Quantifying</p> <p>3 Association Between Regular Use of Genital Talcum</p> <p>4 Powder Products and Ovarian Epithelial Cancer"; is</p> <p>5 that correct?</p> <p>6 A. Yes, you read that correctly.</p> <p>7 Q. My understanding is that you did not change</p> <p>8 the meta-analysis itself, and by that I mean the</p> <p>9 systematic review that you performed and that you</p> <p>10 describe in your first deposition, and you describe</p> <p>11 in your original report. You have not done a further</p> <p>12 or updated or different meta-analysis for purposes of</p> <p>13 your amended report; is that right?</p> <p>14 A. Correct. It did not change.</p> <p>15 Q. The only new meta-analysis that you've done</p> <p>16 between your original report and your amended report</p> <p>17 was whatever work you and Dr. Woolen did on your</p> <p>18 unpublished study; correct?</p> <p>19 A. Yes.</p> <p>20 Q. On page 35 -- well, let me foundationally</p> <p>21 say, on page 34 of your amended report, you explain</p> <p>22 that:</p> <p>23 (Reading) For the systematic review</p> <p>24 below of studies on the</p> <p>25 relationship between perennial</p>	<p>1 amended report, Exhibit 9, those ten studies are</p> <p>2 listed on figure 2, on page 36; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. (Reading) These ten studies reported</p> <p>5 on regular talc powder products'</p> <p>6 use and the risk of ovarian cancer,</p> <p>7 these studies were homogeneous, and</p> <p>8 the odds of ovarian cancer</p> <p>9 associated with regular use was</p> <p>10 1.43 percent with a 95 percent</p> <p>11 confidence interval of 1.15 to 1.71</p> <p>12 (end of reading).</p> <p>13 That's what you state in your amended report</p> <p>14 under, "Results"; is that right?</p> <p>15 A. Yes. It's an odds of 1.43. But yes.</p> <p>16 MS. O'DELL: Mike, this material is the same</p> <p>17 as in her original report, and I understand --</p> <p>18 MR. ZELLERS: I've got -- this is just</p> <p>19 foundational. And what I'm trying to understand is</p> <p>20 the differences. Because there are differences</p> <p>21 between the amended report and the original report</p> <p>22 with respect to the meta-analysis, or at least the</p> <p>23 description of the meta-analysis. So I'm trying to</p> <p>24 understand what the differences are.</p> <p>25 Q. I do -- I believe, Dr. Smith-Bindman, that</p>
Page 91	Page 93
<p>1 exposure to talcum powder products</p> <p>2 and ovarian cancer, I focused on</p> <p>3 whether regular use of perineal or</p> <p>4 genital talc increases the risk of</p> <p>5 ovarian cancer (end of reading).</p> <p>6 Is that correct?</p> <p>7 A. I don't know where you are. Sorry.</p> <p>8 Q. Well, is that generally what you did?</p> <p>9 A. Yes.</p> <p>10 Q. Then on page 35 of your amended report,</p> <p>11 Exhibit 9, you state in the second subsection under</p> <p>12 "Defining Talcum Powder's Use":</p> <p>13 (Reading) Regular use was defined</p> <p>14 as at least three times per week or</p> <p>15 where the total number of lifetime</p> <p>16 applications correspond to</p> <p>17 approximately daily exposure (end</p> <p>18 of reading).</p> <p>19 Is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. The review you performed, in both your</p> <p>22 original report and your amended report, included ten</p> <p>23 studies; is that right?</p> <p>24 A. Yes, that's correct.</p> <p>25 Q. And if you take a look at page 36 of the</p>	<p>1 your conclusion, that I just read here, is the same</p> <p>2 conclusion that you put in your original report; is</p> <p>3 that right?</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. ZELLERS: And, Ms. O'Dell, so you</p> <p>6 understand where I'm going, there are changes here,</p> <p>7 and particularly a change from a focus on serous to a</p> <p>8 general opinion that I'm going to ask about.</p> <p>9 MS. O'DELL: We don't have any objection to</p> <p>10 any changes that you explore with Dr. Smith-Bindman.</p> <p>11 But I understand Judge Wolfson has made clear that</p> <p>12 there's no going back to previous -- excuse me,</p> <p>13 previous retreading of topics that she covered in the</p> <p>14 first deposition.</p> <p>15 And I understand what you're doing now. I</p> <p>16 just wanted to let you know that we object to that</p> <p>17 type of examination.</p> <p>18 MR. ZELLERS: Understood.</p> <p>19 Q. Dr. Smith-Bindman, your unpublished study</p> <p>20 follows a similar methodology but not necessarily</p> <p>21 identical methodology, is as the systematic review</p> <p>22 that is described in your Amended Expert Report; is</p> <p>23 that right?</p> <p>24 And I'm looking at page 17, if you need to</p> <p>25 read the words.</p>

<p style="text-align: right;">Page 94</p> <p>1 A. No, I -- you're asking if what I'm referring 2 to is the unpublished results? 3 Q. What I'm asking you is: Do you agree that 4 your unpublished study follows a similar methodology 5 but not necessarily identical as the systematic 6 review that's contained in both your original report 7 and then, you know, with some variations, in your 8 amended report? 9 A. Yes. 10 Q. In order to publish or attempt to publish 11 your systematic review, you had to include greater 12 details about the methodology so that other 13 investigators could duplicate your work; is that 14 right? 15 A. Yes. 16 Q. In order to publish the results in a 17 high-impact journal, you had to register your study 18 protocol; is that right? 19 A. Yes. 20 Q. You and Drs. Woolen and Lazar -- and 21 Dr. Lazar is a statistician? 22 A. Uh-huh. 23 Q. -- set out to follow the strict rules for 24 systematic reviews, that are outlined by the Cochrane 25 collaboration, in order to attempt to get your</p>	<p style="text-align: right;">Page 96</p> <p>1 ovarian cancer; is that right? 2 A. Yes. 3 Q. This definition of frequent use, of two 4 times a week, is similar to regular use of three 5 times a week in your MDL systematic review; is that 6 right? 7 A. Yes. 8 Q. There's a difference of a day, but 9 essentially are you looking at the same groups? 10 A. The inclusion is different by a day, but the 11 women who were included are mostly daily users. So, 12 in large part, it results in a similar identification 13 of frequent users. 14 Q. There was a database search that was done; 15 it returned 761 citations. And after a review of 16 those potential studies, you and Dr. Woolen got down 17 to 11 studies; fair? 18 A. Yes. 19 Q. The only difference between the 10 studies 20 in your MDL systematic review and the 11 in the 21 unpublished study is that you include the Rosenblatt 22 study in your unpublished study; is that right? 23 A. There is another important difference. 24 Q. What is that? 25 A. In the review that I did as part of my</p>
<p style="text-align: right;">Page 95</p> <p>1 unpublished study published? 2 A. Yes. 3 Q. You did a search of the literature with 4 respect to your unpublished study; correct? 5 A. Uh-huh. 6 Q. You -- is that a "Yes"? 7 A. Yes. 8 Q. You hired a library informationist to 9 conduct a search? 10 A. I don't think it was hiring. But we asked. 11 Q. All right. Someone was provided to you -- 12 A. Yes. 13 Q. -- is that right? 14 A. Yes. 15 Q. Dr. Woolen set the guidelines for pooling 16 data, for analyzing data, and for developing the 17 protocol; correct? 18 A. Anne contributed to that as well, but, yes, 19 Sean led that effort. 20 Q. Dr. Woolen created the steps for analyzing 21 the data, checking for consistency; is that correct? 22 A. Yes. 23 Q. The purpose of your unpublished study is to 24 estimate the association between frequent, at least 25 two times per week, perineal talcum powder use and</p>	<p style="text-align: right;">Page 97</p> <p>1 systematic review for the MDL, I included Gertig as a 2 reflection of the Nurses' Health Study, NHS. 3 Q. Gertig is the -- 4 MS. O'DELL: Excuse me. Were you finished, 5 Dr. Smith-Bindman? 6 THE WITNESS: No. 7 MR. ZELLERS: Oh, I'm sorry. Go ahead. 8 THE WITNESS: So as part of the review we 9 did, we used the publication from Gertig from 2000. 10 Since -- after I had written my -- and done the 11 review, there was a much longer period of follow-up 12 published in O'Brien from the Nurses' Health Study. 13 Further, in addition to that longer period 14 of follow-up, we reached out to O'Brien to include 15 unpublished data from the Nurses' Health Study. So 16 in the systematic review that's unpublished, we have 17 a much longer period of follow-up from the Nurses' 18 Health Study. 19 BY MR. ZELLERS: 20 Q. Do I understand correctly that the 21 differences, in terms of at least study inclusion or 22 data inclusion, between the systematic review that 23 you describe in your MDL and amended MDL report, and 24 your unpublished study, which you also reference in 25 your report, is that the unpublished study includes</p>

<p style="text-align: right;">Page 98</p> <p>1 Rosenblatt; correct?</p> <p>2 A. Yes.</p> <p>3 Q. Rosenblatt was excluded from your systematic</p> <p>4 review that you did for purposes of the MDL lawyers?</p> <p>5 MS. O'DELL: Object to the form.</p> <p>6 THE WITNESS: I believe the initial draft</p> <p>7 did the analysis with and without that author, and it</p> <p>8 didn't have any impact because it's a very small</p> <p>9 study.</p> <p>10 And so in the amended report, I didn't</p> <p>11 include both versions with and without because it</p> <p>12 didn't have an impact. So it was not included in the</p> <p>13 amended report. I think it was -- it might have been</p> <p>14 in the first, and it is included in the unpublished</p> <p>15 review.</p> <p>16 MR. ZELLERS: All right. Move to strike as</p> <p>17 nonresponsive.</p> <p>18 Q. My question is: In the systematic review</p> <p>19 that you did for the MDL lawyers, that systematic</p> <p>20 review excluded Rosenblatt?</p> <p>21 And I believe we had a discussion about that</p> <p>22 when I took your deposition back in 2019.</p> <p>23 If you don't recall, it's okay to say you</p> <p>24 don't recall, and we can look at your documents at a</p> <p>25 later time.</p>	<p style="text-align: right;">Page 100</p> <p>1 information with a longer period of follow-up and a</p> <p>2 greater number of incident cancers from the Nurses'</p> <p>3 Health Study 1; correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you describe that in your amended</p> <p>6 report, deposition Exhibit 9, at page 17. I don't</p> <p>7 need you to confirm that, other than does that sound</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 MS. O'DELL: Object to the form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. ZELLERS:</p> <p>13 Q. Do you consider Rosenblatt to be a</p> <p>14 high-quality study?</p> <p>15 A. I do not. I don't remember it in detail,</p> <p>16 but I know I did not think it was a high quality</p> <p>17 study.</p> <p>18 Q. And why do you not think Rosenblatt is a</p> <p>19 high-quality study?</p> <p>20 A. My recollection is that it just didn't</p> <p>21 provide a lot of detail. Not so much that it was a</p> <p>22 poor study, but just that I -- there was a lot I</p> <p>23 didn't know about the study.</p> <p>24 Q. In your unpublished study, you use the</p> <p>25 confidence intervals that were cited in the original</p>
<p style="text-align: right;">Page 99</p> <p>1 A. I don't fully recall.</p> <p>2 Q. All right. And, again, I do believe that I</p> <p>3 asked you questions about Rosenblatt and the</p> <p>4 exclusion, and why the study was excluded from the</p> <p>5 MDL systematic review back when we talked in 2019.</p> <p>6 My new question is: Your unpublished study</p> <p>7 includes Rosenblatt --</p> <p>8 A. Yes.</p> <p>9 Q. -- and it includes the unpublished</p> <p>10 information from O'Brien relating to the Nurses'</p> <p>11 Health Study 1; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Your paper -- well, let me back up.</p> <p>14 So you contacted Dr. O'Brien, and you</p> <p>15 requested primary data from the Nurses' Health Study</p> <p>16 1 for the highest frequency talc exposure group;</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Your paper then, your unpublished paper,</p> <p>20 used this unpublished data from the Nurses' Health</p> <p>21 Study 1, which also was published in Gertig 2000, for</p> <p>22 only those women in the highest frequency talc</p> <p>23 exposure group; correct?</p> <p>24 A. Yes.</p> <p>25 Q. So your unpublished study includes updated</p>	<p style="text-align: right;">Page 101</p> <p>1 studies; is that right?</p> <p>2 A. I am not a hundred percent sure about that.</p> <p>3 Q. All right.</p> <p>4 A. I -- yeah.</p> <p>5 Q. Take a look at page 38 at Deposition</p> <p>6 Exhibit 4.</p> <p>7 A. Yes.</p> <p>8 Q. Does it appear that at least in your draft</p> <p>9 of the unpublished study, that you use the confidence</p> <p>10 intervals that were cited in the original studies?</p> <p>11 A. I know the confidence intervals are not</p> <p>12 exactly the same as the ones in my report. I am not</p> <p>13 positive that these confidence intervals reflect the</p> <p>14 published numbers. I believe they do, but I'm not</p> <p>15 sure about that.</p> <p>16 Q. There's a difference in the confidence</p> <p>17 intervals reported for the studies between your MDL</p> <p>18 systematic review and your unpublished study;</p> <p>19 correct?</p> <p>20 A. Yes. Correct.</p> <p>21 Q. As we sit here today, you're not able to</p> <p>22 explain to me the difference between those confidence</p> <p>23 intervals; correct?</p> <p>24 MS. O'DELL: Object to the form.</p> <p>25 THE WITNESS: No. The biostatistician,</p>

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<p>1 Anne, used a different approach for calculating the 2 confidence interval. So I know they changed a little 3 bit. They shifted a little bit from the ones we had 4 used, that Jane had calculated for me in the MDL 5 report systematic review. 6 BY MR. ZELLERS: 7 Q. Jane Hall calculated confidence intervals 8 for the MDL systematic review; correct? 9 A. Yes. 10 Q. Anne Lazar calculated the confidence 11 intervals for your unpublished study; correct? 12 A. That's correct. 13 Q. You're not able to tell me what Anne Lazar 14 did or how she went about calculating the confidence 15 intervals for the unpublished study; is that right? 16 MS. O'DELL: Object to the form. 17 THE WITNESS: So in the unpublished 18 manuscript, it explained how those numbers were 19 calculated. 20 BY MR. ZELLERS: 21 Q. That's where you would go to understand how 22 the numbers were calculated; correct? 23 A. Yes. 24 Q. All right. 25 A. Yes.</p>	<p>1 had the data but was concerned about your timing and 2 replied, "I hesitate to commit because of our 3 deadlines." Is that your recollection? 4 A. Yes. 5 Q. You responded, "I am not sure if it would 6 help, but I would be happy to contribute dollars to 7 pay for someone from your team to try to put time in 8 trying to retrieve these data." Do you recall that? 9 A. Yes. 10 Q. Did you ever follow up after that, or did 11 you ever hear back from Dr. Wu? 12 A. I don't remember specifically if she 13 responded to that email, but she wasn't able to 14 provide the data. 15 Q. Any response would have been by email; 16 correct? 17 A. Yes. 18 Q. And any response would have been included in 19 your response to the request for production of 20 documents relating to the unpublished study; is that 21 right? 22 A. Yes. 23 Q. Who was going to pay for someone on Dr. Wu's 24 team to try to retrieve the data? 25 A. I'm sure I didn't exactly know at the time I</p>
Page 103	Page 105
<p>1 Q. You've submitted the unpublished study to a 2 number of different journals for publication; is that 3 right? 4 A. Yes. 5 Q. I believe I counted, and the journal [sic] 6 has been submitted and rejected by at least eight 7 peer-review publications; correct? 8 A. I need to count. Would you like me to 9 count? 10 Q. Let's go through it. I'm going to ask you 11 some questions about the submissions -- 12 A. Yes. 13 Q. -- and at the end we can read the record and 14 see -- 15 A. Great. 16 Q. -- what we have. 17 Back in early February of 2020 -- so this, I 18 believe, is during the period of time you were still 19 considering a response to the O'Brien paper -- you 20 reached out to Dr. Wu, and you requested her data on 21 regular frequent daily use, and if she would be 22 willing to share that data; correct? 23 A. Yes. 24 Q. And Dr. Wu responded -- and I think this is 25 consistent with your earlier testimony -- that she</p>	<p>1 offered. But I have small amounts of faculty 2 research funding that I was probably imagining to 3 use. 4 Q. On February 4th of 2020, you and Dr. Woolen 5 were discussing the Excel sheet and how you both 6 included different control and cancer numbers; do you 7 recall that? 8 A. I recall that we discussed disagreements in 9 data extraction, if that's what you're referring to. 10 Q. Do you recall telling Dr. Woolen that, "At 11 some point I got lazy about entering age and 12 enrollment period"? 13 A. I do remember saying that. 14 Q. And do you remember around this same time, 15 February of 2020, telling Dr. Woolen, "I have 16 definitely never worked quite so fast"? 17 A. I don't remember that, but I'm not 18 surprised, if you're reading it, that I would have 19 said that. 20 Q. So -- 21 A. And this was -- this was for the research 22 letter, I believe, not the review that you keep 23 referring to. This was the research letter where we 24 only had a month when it could be considered in 25 response to O'Brien. So I don't know what you're</p>

<p style="text-align: right;">Page 106</p> <p>1 reading, but --</p> <p>2 Q. Well, I'm reading your emails. But in terms</p> <p>3 of timing, the emails are February 4th and</p> <p>4 February 14th of 2020, and I believe that was before</p> <p>5 you submitted the research letter.</p> <p>6 We identified earlier that you submitted the</p> <p>7 research letter to Dr. Bauchner on February 18th of</p> <p>8 2020?</p> <p>9 MS. O'DELL: Excuse me. Object to the form</p> <p>10 and just request that you direct Dr. Smith-Bindman to</p> <p>11 the -- to the page so she can get herself oriented as</p> <p>12 to time.</p> <p>13 MR. ZELLERS: Well, I don't think we need to</p> <p>14 do that.</p> <p>15 I will note, for the record, that the first</p> <p>16 statement was on page 974, the second statement was</p> <p>17 on page 1054 of Deposition Exhibit 5, but the doctor</p> <p>18 said that sounds right, and explained the context.</p> <p>19 MS. O'DELL: There are 1380-something pages,</p> <p>20 and I'm sure that we don't expect Dr. Smith-Bindman</p> <p>21 to have them committed to memory. And we want to</p> <p>22 make sure it is accurate.</p> <p>23 MR. ZELLERS: You have objected to form.</p> <p>24 Q. Dr. Smith-Bindman, so now going forward in</p> <p>25 time, do you recall in June of this year having a</p>	<p style="text-align: right;">Page 108</p> <p>1 statement correctly?</p> <p>2 A. You read the statement correctly, yes.</p> <p>3 Q. All right. The timing of this was around</p> <p>4 the time that your unpublished study was rejected</p> <p>5 from "JAMA Internal Medicine," "JAMA Oncology," "JAMA</p> <p>6 Open Network," "BMJ," "Annals of Internal Medicine,"</p> <p>7 and "Journal of General Internal Medicine"; is that</p> <p>8 right?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 THE WITNESS: Several of those rejections</p> <p>11 were not actually paper submissions that we did. We</p> <p>12 submitted the paper to "JAMA Internal Medicine."</p> <p>13 They then referred it to other journals. We were</p> <p>14 sort of not really involved in that. And the other</p> <p>15 journals passed on them. But we hadn't actually</p> <p>16 submitted it to those other journals.</p> <p>17 BY MR. ZELLERS:</p> <p>18 Q. I will ask you a few questions about that.</p> <p>19 Do you recall back in September of 2021 --</p> <p>20 so just last month, because we're now on</p> <p>21 October 1st --</p> <p>22 A. Yes.</p> <p>23 Q. -- that you submitted the unpublished study</p> <p>24 to the "American Journal of Obstetrics and</p> <p>25 Gynecology"?</p>
<p style="text-align: right;">Page 107</p> <p>1 discussion where Dr. Woolen suggested, "We will have</p> <p>2 to rerun some of the stats based on the values</p> <p>3 changing in the Excel document"? Do you recall that</p> <p>4 at all?</p> <p>5 A. Not -- I don't know what it's referring to.</p> <p>6 Q. Take a look at page 1131, Deposition</p> <p>7 Exhibit 5. Do you see that page?</p> <p>8 A. Yes.</p> <p>9 Q. And do you see the statement from</p> <p>10 Dr. Woolen, "We will have to rerun some of the stats</p> <p>11 based on the values changing in the Excel document"?</p> <p>12 A. For the sensitivity analysis.</p> <p>13 Q. And this relates to the journals and the</p> <p>14 attempts to have your unpublished study published; is</p> <p>15 that right?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 THE WITNESS: I do not remember what this</p> <p>18 was a revision to, but I'm looking back a little bit.</p> <p>19 So I see what it's referring to a few pages</p> <p>20 back.</p> <p>21 BY MR. ZELLERS:</p> <p>22 Q. All right. Your response to Dr. Woolen was,</p> <p>23 "Not sure about relooking at numbers. Seems too much</p> <p>24 work."</p> <p>25 Did I read that correctly? Did I read your</p>	<p style="text-align: right;">Page 109</p> <p>1 A. Yes.</p> <p>2 Q. And have you heard back from the "American</p> <p>3 Journal of Obstetrics and Gynecology"?</p> <p>4 A. Yes, we heard back a few days later. They</p> <p>5 decided not to review it at all.</p> <p>6 Q. Did you get a letter to that effect?</p> <p>7 A. Sean would have gotten the letter.</p> <p>8 Q. All right. Did he share the letter with</p> <p>9 you? Did you see the letter?</p> <p>10 A. I think I saw the letter.</p> <p>11 Q. Were there comments, reviewer comments?</p> <p>12 A. No. They didn't review the paper.</p> <p>13 Q. Did they state why they were not accepting</p> <p>14 the paper for publication?</p> <p>15 A. They said they had -- you know, that they</p> <p>16 accept fewer than five percent of submitted</p> <p>17 manuscripts.</p> <p>18 Q. Did they give any substantive reasons as to</p> <p>19 why they were not accepting?</p> <p>20 A. Not that I remember. They didn't send it</p> <p>21 out for review.</p> <p>22 Q. If I understand your testimony, that since</p> <p>23 that time, since receiving that rejection, that you</p> <p>24 and Dr. Woolen have submitted the unpublished study</p> <p>25 to the "Journal of General Internal Medicine"; is</p>

<p style="text-align: right;">Page 110</p> <p>1 that right?</p> <p>2 A. Yes.</p> <p>3 Q. On February 26 of 2020 -- so early February</p> <p>4 of 2020 -- let me check that date. I will restart my</p> <p>5 question.</p> <p>6 On February 26, 2020, Dr. Bauchner said,</p> <p>7 "Jody mentioned meta-analysis not possible as a RL."</p> <p>8 So can you take a look, please, at page 706,</p> <p>9 Deposition Exhibit 4. Do you have that?</p> <p>10 A. I have page 706. Yes.</p> <p>11 Q. And Dr. Bauchner is telling you at the end</p> <p>12 of February 2020, "Jody mentioned meta-analysis not</p> <p>13 possible as a RL." Who is Jody?</p> <p>14 A. Jody is the editor of the research letters.</p> <p>15 Q. Dr. Bauchner continues, "Do think it will be</p> <p>16 a stretch at JAMA for various reasons. Think JAMA IM</p> <p>17 a better first stop."</p> <p>18 JAMA IM is "JAMA Internal Medicine"; is that</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. Then in February -- strike that.</p> <p>22 In September of 2020, you submitted your</p> <p>23 unpublished study to "JAMA Internal Medicine"; is</p> <p>24 that right?</p> <p>25 A. It was about that time.</p>	<p style="text-align: right;">Page 112</p> <p>1 publication; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. If you look on page 435, this is at least</p> <p>4 some of the communications between Dr. Woolen and</p> <p>5 Richard Grant, who is the reviewing editor for "JAMA</p> <p>6 Internal Medicine"; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. So I see reviewer comments here from</p> <p>9 Reviewer 3 and Reviewer 4. Did you receive other</p> <p>10 reviewer comments other than from Reviewer 3 and 4 --</p> <p>11 and also I see Reviewer 5 provided some comments.</p> <p>12 A. Yes, just those three.</p> <p>13 Q. Do you recall seeing any other comments from</p> <p>14 any of the other reviewers at "JAMA Internal</p> <p>15 Medicine"?</p> <p>16 A. I did not. And I reached out to Sean to</p> <p>17 make sure that there were no other comments that</p> <p>18 somehow I just didn't have. And there were no other</p> <p>19 comments provided.</p> <p>20 Q. Well, if we look at page 435, Reviewer 3 was</p> <p>21 critical of the lack of consideration given to</p> <p>22 specific histological types; is that right?</p> <p>23 And I'm looking at the last paragraph on the</p> <p>24 page:</p> <p>25 (Reading) No consideration is given</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. All right. In December of 2020, the study</p> <p>2 was rejected. Do you recall that?</p> <p>3 A. I remember it was rejected, but, again, the</p> <p>4 timing I don't have.</p> <p>5 Q. Take a look, if you will, at Exhibit 4,</p> <p>6 page 434.</p> <p>7 A. Yes.</p> <p>8 MS. O'DELL: Excuse me, Dr. Smith-Bindman.</p> <p>9 Is your answer to the question "Yes," or you're at</p> <p>10 the right page?</p> <p>11 THE WITNESS: I am at the right page.</p> <p>12 MS. O'DELL: Please make sure because it</p> <p>13 might be confusing on the record.</p> <p>14 BY MR. ZELLERS:</p> <p>15 Q. On December 7, 2020, your unpublished study</p> <p>16 was rejected by "JAMA Internal Medicine"; is that</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. You received reviewer comments back from</p> <p>20 "JAMA Internal Medicine"?</p> <p>21 A. Yes.</p> <p>22 Q. You thought the "JAMA Internal Medicine"</p> <p>23 reviewers make some good points, I am afraid, and</p> <p>24 were -- you were not optimistic, given the reviews,</p> <p>25 that "JAMA Oncology" would accept the study for</p>	<p style="text-align: right;">Page 113</p> <p>1 to other epidemiologic aspects of</p> <p>2 the association between talc use</p> <p>3 and risk of ovarian cancer, such as</p> <p>4 dose-response, specificity, paren,</p> <p>5 i.e., risk of specific histological</p> <p>6 types of ovarian cancer, latency,</p> <p>7 et cetera. In general, the</p> <p>8 important issue of recall bias in</p> <p>9 case-control studies is downplayed</p> <p>10 (end of reading).</p> <p>11 Those were comments made by at least one of</p> <p>12 the reviewers from "JAMA Internal Medicine"; is that</p> <p>13 right?</p> <p>14 A. Yes.</p> <p>15 Q. That reviewer was also critical about</p> <p>16 comparing the risk of talc use and ovarian cancer to</p> <p>17 high occupational exposure to asbestos; is that</p> <p>18 right?</p> <p>19 And specifically, Dr. Smith-Bindman, I'm</p> <p>20 looking at the top of page 436, the comment from?</p> <p>21 Reviewer No. 3:</p> <p>22 (Reading) Nonepidemiologic</p> <p>23 consideration are ignored to</p> <p>24 conclude on causality solely on the</p> <p>25 basis of a pooled, paren, and</p>

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<p>1 biased, see above, closed paren, 2 estimate of relative risk is 3 inappropriate. In particular, 4 assuming the association between 5 perineal talc use and ovarian 6 cancer, risk is real, how could the 7 relative risk be comparable to that 8 of women with high sustained 9 occupational exposure to asbestos, 10 paren, see Carmargo, et al., 2011, 11 closed paren, given that in the 12 worst-case asbestos was present as 13 impurity in some talc products (end 14 of reading). 15 Was that the criticism, or at least the 16 review from Reviewer 3? 17 A. That was the review for -- I don't think 18 there was anything about any of the occupational 19 exposure or Combargo in the paper. I think they were 20 just comparing what we found for talcum powder. In 21 their mind they compared it to occupational 22 exposures. I don't think that was anything in our 23 paper. 24 Q. Reviewer 4 questioned the need for another 25 meta-analysis; is that right?</p>	<p>1 use as the ever, slash, never use 2 association is diluted by the 3 one-time user. However, there are 4 two main fallacies with this 5 argument. First, in the majority 6 of these studies and, quote, ever 7 user, closed quote, of talc/body 8 powder is specifically specified as 9 a quote, regular, closed quote, 10 talc, slash, body powder user with 11 different quantifications for, 12 quote, regular use, closed quote, 13 paren, use of talc, slash, body 14 powder for at least once a month 15 for six months or longer, closed 16 paren (end of reading). 17 Did I read that correctly? 18 A. Yes. 19 Q. So then he continues: 20 (Reading) So the association for 21 ever/never use is generally 22 reflected of regular talc/body 23 powder users, not one-time use (end 24 of reading). 25 So that was the comment from Reviewer 4; is</p>
Page 115	Page 117
<p>1 And I'm looking at -- you see the Reviewer 4 2 comments on page 436? 3 A. Yes. 4 Q. And I'm looking partway through the first 5 paragraph: 6 (Reading) There are a few 7 fundamental issues, particularly 8 the need to conduct a meta-analysis 9 for frequent talc use. 10 Additionally, there are some 11 instances where the authors 12 overstate prior literature, and 13 epidemiologic concepts are 14 misrepresented or not appropriately 15 discussed throughout the manuscript 16 (end of reading). 17 That was, at least in part, the comment by 18 Reviewer No. 4; is that right? 19 A. That is correct. 20 Q. That reviewer also questioned your 21 definition of regular use; is that right? 22 So I'm looking at his or her comment 1: 23 (Reading) The entire rationale of 24 this meta-analysis is the need to 25 look at frequent perineal powder</p>	<p>1 that right? 2 A. Yes. 3 Q. And so what that reviewer is saying is that 4 the association for ever/never is generally 5 reflective of regular use; is that right? 6 A. That is what the reviewer says. 7 Q. All right. That Reviewer No. 4, on page 436 8 of Exhibit 4, was also critical of quantifying 9 frequent use due to recall, misclassification, and 10 measurement error; is that right? 11 A. Yes. 12 Q. And I won't read it, but I was specifically 13 looking at his comment also on No. 1, where he goes 14 on to state, "Second, the authors failed to 15 acknowledge." 16 He or she continues, and also was critical 17 regarding duration of use from the unpublished study; 18 is that right? 19 MS. O'DELL: Object to the form. 20 BY MR. ZELLERS: 21 Q. Well, take a look at his comment or her 22 comment under, "Major comments No. 2," page 436. 23 (Reading) It is unclear whether the 24 reported frequent use of at least 25 two times weekly occurs within a</p>

<p style="text-align: right;">Page 118</p> <p>1 set duration, the lifespan, 2 et cetera. There is a missed 3 opportunity to examine duration of 4 use as well as lifetime number of 5 applications (end of reading). 6 Is that the statement by Reviewer No. 4? 7 A. Yes. 8 Q. Reviewer No. 4 states that the studies that 9 you include in your unpublished study include women 10 who use other powders, including corn starch and 11 deodorizing powders and was critical that you did not 12 include an analysis of these other powders in your 13 study; is that right? 14 A. Yes. 15 Q. The reviewer further thought that the 16 references in the unpublished study to asbestos were 17 misleading; correct? 18 A. Yes. 19 Q. The author stated, "While the publicity" -- 20 strike that. 21 The reviewer stated: 22 (Reading) While the publicity 23 related to talc and how it could 24 affect reporting of talc use is 25 briefly mentioned in lines 274 to</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. And that given their reviews, that you were 2 not optimistic that "JAMA Oncology" would accept the 3 study; is that right? 4 A. I did not believe that without making the 5 suggested changes, that the "JAMA Oncology" was even 6 going to review the paper. 7 Q. The paper was eventually submitted to "JAMA 8 Oncology"; is that right? 9 A. We did not submit the paper, but "JAMA 10 Internal Medicine" did an internal referral. 11 Q. Do you have any email communications, or any 12 documentations, about the submission of your 13 unpublished study to "JAMA Oncology"? 14 A. We did not submit the paper to "JAMA 15 Oncology," so we -- it was referred internally. And 16 I know they decided not to review it. 17 Q. All right. Take a look at page 95, if you 18 will. And that's Deposition Exhibit 4. 19 MS. O'DELL: 95, did you say? 20 MR. ZELLERS: Yes. 21 THE WITNESS: Yes, I'm on page 95. 22 BY MR. ZELLERS: 23 Q. And if we look at page 95, we see some 24 communication here relating to, "The paper is now 25 with "JAMA Oncology," fingers crossed for a quick</p>
<p style="text-align: right;">Page 119</p> <p>1 275, the authors did not address 2 the reporting bias due to the 3 lawsuits that was observed in 4 Schildkraut, et al., and additional 5 sensitivity analysis excluding 6 Schildkraut, et al. should be 7 conducted (end of reading). 8 Was that another comment that the reviewers 9 made? 10 A. Yes. 11 Q. You reviewed these comments with Dr. Woolen; 12 is that right? 13 A. Yes. 14 Q. You tried, or at least then, and then 15 subsequently, have attempted to address the concerns 16 and the comments of the reviewers; is that right? 17 A. I think we carefully considered each of the 18 comments. And the ones that we thought were 19 insightful and that we thought would strengthen the 20 paper, we made those changes. And the ones that we 21 didn't agree with, we didn't make those changes. 22 Q. Well, you did agree generally with these 23 "JAMA Internal Medicine" reviewers that they made 24 some good points; correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 121</p> <p>1 turnaround time." 2 And Dr. Woolen wrote that to you on December 3 15th of 2020; is that right? 4 A. Yes. 5 Q. Do you -- this is a "yes" or "no" question. 6 Do you have any knowledge or understanding 7 of what the redaction is underneath Dr. Woolen's 8 email to you of December 15th, 2020? 9 A. I do not. 10 Q. Did your team ever receive reviewer comments 11 from "JAMA Oncology"? 12 A. It was never sent for review for "JAMA 13 Oncology." 14 Q. I understand. But you -- you've testified, 15 and you know and you're aware, that it was rejected 16 by "JAMA Oncology"? 17 A. Yes. 18 Q. How do you know that? 19 A. Sean must have told me that it was. 20 Q. Do you know whether or not "JAMA Oncology" 21 communicated with Sean to advise him that the paper 22 had been rejected by "JAMA Oncology"? 23 A. I don't know how they communicated that to 24 him. 25 Q. Have you seen any written documents from</p>

<p style="text-align: right;">Page 122</p> <p>1 "JAMA Oncology" relating to either the submission or 2 the rejection of your unpublished study? 3 A. I don't remember anything. And if there 4 were no emails about it, then -- then, no, I didn't 5 receive anything. I don't remember seeing anything. 6 Q. Do you recall seeing any reviewer comments 7 or any summary of reviewer comments from "JAMA 8 Oncology"? 9 A. I know there were no reviewer comments, 10 because it wasn't sent for review. 11 Q. If you look at the next page, page 96, 12 apparently your unpublished study was also then 13 submitted to "JAMA Open Network"; is that right? 14 A. Yes. 15 Q. And there is a \$3,000 fee for publication 16 with "JAMA Open Network"? 17 A. Yes. 18 Q. Was your unpublished study submitted to 19 "JAMA Open Network"? 20 A. Again, the same way for "JAMA Oncology." It 21 was forwarded by the editor to JAMA Open, I believe. 22 Q. Who paid the \$3,000 fee for publication? 23 A. You only pay that fee if it's accepted for 24 publication. It's not an evaluation fee. 25 Q. What was your understanding of who or how</p>	<p style="text-align: right;">Page 124</p> <p>1 receive any reviewer comments from "JAMA Open 2 Network"? 3 A. It didn't send the paper out for review, so 4 there were no other reviews. And so, no, I did not 5 see them. They didn't exist. 6 Q. In January of 2021, your unpublished study 7 was submitted to the "British Medical Journal"; is 8 that right? 9 A. Yes. 10 Q. Within two days you received a rejection 11 from the "British Medical Journal"? 12 A. Yes. 13 Q. The "British Medical Journal" rejection 14 suggested that you might want to submit your 15 unpublished paper to the "Journal of Epidemiology and 16 Community Health." Do you recall that? 17 A. I do. 18 Q. And was your unpublished study submitted to 19 the "Journal of Epidemiology and Community Health"? 20 A. It was not. 21 Q. Why not? 22 A. At the time, when I looked up those -- the 23 journal they suggested, I thought we would have a 24 possible publication in a higher-impact journal. 25 Q. Did you receive any reviewer comments from</p>
<p style="text-align: right;">Page 123</p> <p>1 that fee would have been paid, had the paper been 2 accepted by "JAMA Open Network"? 3 A. I have a small faculty amount of funding 4 that I could use for this kind of thing. 5 Q. That never came to be because "JAMA Open 6 Network" rejected the paper; is that right? 7 A. That's correct. 8 Q. And you found out about that in 9 mid-December, on or about December 22nd of 2020? 10 A. I don't remember exactly when it was, but 11 that sounds -- 12 Q. I'm looking at page 100 at the bottom, when 13 Dr. Woolen wrote to you and said: 14 (Reading) "JAMA Open Network" 15 rejected the paper. The rejection 16 is not completely surprising given 17 the editor saw the same reviews 18 (end of reading). 19 Did I read that correctly? 20 A. Yes. 21 Q. Your understanding of the "same reviews" 22 were the "JAMA Internal Medicine" reviews? 23 A. Yes. 24 Q. Did your -- strike that. 25 Did you or Dr. Woolen, to your knowledge,</p>	<p style="text-align: right;">Page 125</p> <p>1 the "British Medical Journal"? 2 A. No. They decided not to send it out for 3 review, so there were no reviews. 4 Q. Did the "British Medical Journal" explain to 5 either you or Dr. Woolen, if you're aware, why they 6 rejected publication or even to submit your 7 publication to reviewers? 8 A. They said that they only send out a very 9 small proportion, less than five percent of papers 10 for review, and this didn't meet the content area 11 that they thought would be important enough for them 12 to focus on. 13 Q. "Annals of Internal Medicine," you and your 14 team submitted your unpublished study to that journal 15 in January of 2021; is that your recollection? 16 A. The timing sounds about right. 17 Q. The unpublished study was rejected by the 18 "Annals of Internal Medicine"; is that right? 19 A. Yes. 20 Q. Did you or Dr. Woolen, to your knowledge, 21 receive reviewer comments for the study? 22 A. Yes, we did. 23 Q. What do you recall were the major comments 24 or concerns from the reviewers of "Annals of Internal 25 Medicine"?</p>

<p style="text-align: right;">Page 126</p> <p>1 A. My recollection is they had a lot of</p> <p>2 comments. Some of the comments were very important,</p> <p>3 and it was helpful to have those. Some of them I</p> <p>4 don't believe we agreed with. But there were quite a</p> <p>5 number of comments.</p> <p>6 Q. The Annals reviewers raised significant</p> <p>7 methodology concerns. Do you have a recollection of</p> <p>8 that?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 THE WITNESS: I don't remember that</p> <p>11 sentence, but I'm not surprised, if you're reading</p> <p>12 it, that's what it says.</p> <p>13 BY MR. ZELLERS:</p> <p>14 Q. Do you have any documents or do you recall</p> <p>15 seeing any documents regarding the submission of the</p> <p>16 paper, unpublished study, to the "Annals of Internal</p> <p>17 Medicine" and the rejection of the paper for</p> <p>18 publication?</p> <p>19 A. Yes.</p> <p>20 Q. Those documents you would expect to be</p> <p>21 included in the response to request for production</p> <p>22 No. 1; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall in May of 2021, Dr. Woolen</p> <p>25 sending you an email regarding certain comments from</p>	<p style="text-align: right;">Page 128</p> <p>1 degree of homogeneity among the</p> <p>2 studies included in this analysis</p> <p>3 (end of reading).</p> <p>4 Is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. What was your understanding of that concern?</p> <p>7 A. So this author questioned our summary of the</p> <p>8 Schildkraut paper in our systematic review. It's not</p> <p>9 totally clear in this comment, I think it's in a</p> <p>10 different comment, that the numbers for Schildkraut</p> <p>11 were not in the analysis. But in the listing of the</p> <p>12 studies it was reversed between cancers and controls.</p> <p>13 So they were flipped. I think that was one of his</p> <p>14 concerns or her concerns.</p> <p>15 And then was also unsure about whether or</p> <p>16 not some of Schillkraut's numbers were extracted</p> <p>17 correctly in terms of who the numbers were</p> <p>18 describing.</p> <p>19 Q. The reviewer is at least questioning</p> <p>20 whether, in the unpublished study, the exposures were</p> <p>21 accurately reported?</p> <p>22 A. Yes.</p> <p>23 Q. The "Journal of General Internal Medicine,"</p> <p>24 it appears that your unpublished study was first</p> <p>25 submitted to that journal March 22nd of 2021. I'm</p>
<p style="text-align: right;">Page 127</p> <p>1 the reviewers? Take a look at pages 98 and 99, if</p> <p>2 you have those in front of you.</p> <p>3 A. Yes, I do.</p> <p>4 Q. Those are the reviewer comments that were</p> <p>5 sent by the "Annals of Internal Medicine," at least</p> <p>6 the ones that were forwarded to you by Dr. Woolen; is</p> <p>7 that right?</p> <p>8 A. Yes.</p> <p>9 Q. There's a statement in the second paragraph,</p> <p>10 on page 98, from Reviewer 1:</p> <p>11 (Reading) I am also somewhat</p> <p>12 concerned about the fidelity of the</p> <p>13 ascertainment of this exposure from</p> <p>14 the source manuscripts (end of</p> <p>15 reading).</p> <p>16 What did you understand that to mean?</p> <p>17 A. This author was questioning some of the</p> <p>18 numbers that were included in our paper.</p> <p>19 Q. He states at the bottom of page 98,</p> <p>20 Deposition Exhibit 4:</p> <p>21 (Reading) This discordance between</p> <p>22 the Schildkraut study and the</p> <p>23 stated methods for this</p> <p>24 meta-analysis causes me to</p> <p>25 seriously question the reported</p>	<p style="text-align: right;">Page 129</p> <p>1 looking at page 132 of Deposition Exhibit 4.</p> <p>2 A. Yes.</p> <p>3 Q. This submission was made by Dr. Woolen to</p> <p>4 Carol Bates, the Co-Editor-in-Chief of that journal;</p> <p>5 is that right?</p> <p>6 A. Are you on page 132 or 133?</p> <p>7 Q. I was looking at 132.</p> <p>8 MS. O'DELL: I'm sorry, Mike. This is 132</p> <p>9 right here.</p> <p>10 BY MR. ZELLERS:</p> <p>11 Q. Yes. So 133 is Dr. Woolen's letter or</p> <p>12 email, and then the response from Dr. Bates is on</p> <p>13 page 132; is that right?</p> <p>14 A. No. The letter from Dr. Bates on 132 is a</p> <p>15 letter from March 22nd, 2021. And the letter from</p> <p>16 Dr. Woolen to the journal was from just a week or two</p> <p>17 ago. So those two letters are not -- it looks like</p> <p>18 they are next to each other, but they are not from</p> <p>19 the same time.</p> <p>20 Q. All right. Let's -- thank you for that</p> <p>21 clarification.</p> <p>22 So we know that sometime before March 22nd</p> <p>23 of 2021, Dr. Woolen or yourself or your team</p> <p>24 submitted your unpublished study to the "Journal of</p> <p>25 General Internal Medicine"; correct?</p>

<p style="text-align: right;">Page 130</p> <p>1 A. No. So, no, that was another example of the 2 manuscript was forwarded by the "Annals of Internal 3 Medicine" to the "Journal of General Internal 4 Medicine," and they didn't send it out to review or 5 consider it, they just looked at the reviews from the 6 Annals and said that, you know, they are not going to 7 even review it. But they went on to say that we 8 could revise the manuscript, and then it would be 9 reconsidered.</p> <p>10 And so on the next page, the letter to the 11 journal several weeks ago, Sean was sending in a 12 substantially revised draft.</p> <p>13 Q. All right. So if I understand correctly, on 14 March 22nd of 2021, the "Journal of General Internal 15 Medicine" rejected the unpublished study; correct?</p> <p>16 A. Yes.</p> <p>17 Q. And looking at Dr. Bates's letter, again, on 18 page 132 of Exhibit 4: 19 (Reading) Ultimately the decision 20 to reject is based on the 21 significant methodologic concerns 22 raised by Annals reviewers. A 23 revision of your original 24 manuscript guided by these reviews 25 would require such substantial</p>	<p style="text-align: right;">Page 132</p> <p>1 submitted to the "Annals of Internal Medicine"? 2 A. Yes. 3 Q. And I would be able to look at the paper 4 that was recently resubmitted to the "Journal of 5 General Internal Medicine"; is that right? 6 A. Yes. 7 Q. We talked about, and I believe you 8 testified, that the "American Journal of Obstetrics 9 and Gynecology" reviewed your paper -- or looked at 10 your paper. It was submitted on September 8th, 2021, 11 and then was rejected on September 13th of 2021; 12 correct? 13 MS. O'DELL: Object to the form. 14 THE WITNESS: I don't remember the dates, 15 but they sound plausible. 16 BY MR. ZELLERS: 17 Q. And, for the record, I was referencing 18 pages 142 and 137. It appears, Dr. Smith-Bindman, 19 that on September 14th of 2021 -- so about two weeks 20 ago -- you resubmitted -- or you submitted the 21 revised unpublished study to the "Journal of General 22 Internal Medicine"; correct? 23 A. Did you tell me where to find that? 24 Q. Well, I can. But do you remember two weeks 25 ago --</p>
<p style="text-align: right;">Page 131</p> <p>1 change that it would essentially be 2 a new submission (end of reading). 3 A. Yes. 4 Q. Do I -- well, and strike that. 5 So my understanding is there were 6 substantial changes and revisions to the manuscript 7 that had been submitted to the "Annals of Internal 8 Medicine" and then also to the "Journal of General 9 Internal Medicine"; correct? 10 A. Yes, that's correct. 11 Q. And those substantial revisions were done to 12 respond to the reviewers from the "Annals of Internal 13 Medicine" and also, you know, the original reviewers 14 back with "JAMA Internal Medicine"? 15 A. That's correct. 16 Q. Did you produce in the documents, in 17 response to request for production 1, you know, the 18 different drafts of your manuscript? 19 A. Yes. 20 Q. So I would be able to go and take a look in 21 that production at what the manuscript looked like 22 when it was submitted to the journal of internal -- 23 to the "JAMA Internal Medicine"; correct? 24 A. Yes. 25 Q. I'd be able to look at the paper as it was</p>	<p style="text-align: right;">Page 133</p> <p>1 A. Yes. 2 Q. -- submitting it? 3 A. Yes. 4 Q. All right. That's all -- 5 A. Yes. 6 Q. Very good. And you have not yet received a 7 response; is that right? 8 A. Correct. 9 Q. Has your unpublished study been submitted to 10 "Obstetric Oncology"? 11 A. No. 12 Q. Has it been submitted to "obstetrics and 13 Gynecology"? 14 A. No. 15 Q. Has it been submitted to "Cancer"? 16 A. No. 17 Q. Was the revised unpublished study 18 resubmitted to "JAMA Open Network"? 19 A. No. 20 Q. Dr. Woolen wrote you and said that "JAMA 21 Open Network" may be interested in a highly revised 22 manuscript. Do you recall him telling you that? 23 A. Yes. 24 Q. And is there a reason you, you know, have 25 not resubmitted the manuscript to "JAMA Open</p>

<p style="text-align: right;">Page 134</p> <p>1 Network"?</p> <p>2 A. No.</p> <p>3 Q. Are there any other journals that your</p> <p>4 unpublished study has been submitted to?</p> <p>5 A. No.</p> <p>6 MR. ZELLERS: Why don't we go off the</p> <p>7 record.</p> <p>8 THE REPORTER: Off the record at 12:52 p.m.</p> <p>9 Back on the record at 1:02 p.m.)</p> <p>10 BY MR. ZELLERS:</p> <p>11 Q. Dr. Smith-Bindman, are you ready to</p> <p>12 continue?</p> <p>13 A. I am ready.</p> <p>14 Q. All right. Let me ask you just a few</p> <p>15 general questions here.</p> <p>16 Other than the Wentzensen article, have you</p> <p>17 reviewed any additional materials that are relevant</p> <p>18 to your opinions since you prepared your amended</p> <p>19 report July 2nd, 2021?</p> <p>20 A. I read a number of other materials in</p> <p>21 preparation for testifying in the Kleiner case.</p> <p>22 Q. If you -- and let me withdraw.</p> <p>23 The Kleiner case involved the same issues</p> <p>24 that we're talking about today; is that right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 136</p> <p>1 or other ovarian cancer talc litigations?</p> <p>2 A. I have not.</p> <p>3 Q. Have you reviewed any transcripts from other</p> <p>4 plaintiff experts, other than what may be reflected</p> <p>5 on your Materials Considered List that we marked as</p> <p>6 Exhibit 13 to this deposition?</p> <p>7 A. I believe I reviewed testimony from one of</p> <p>8 the epidemiologists for the defense lawyers as part</p> <p>9 of the Kleiner case.</p> <p>10 Q. Do you remember who that was?</p> <p>11 A. I think Dr. Deac.</p> <p>12 Q. Other than -- well, strike that.</p> <p>13 Did you review or have you reviewed any</p> <p>14 testimony from plaintiff experts, other than as it</p> <p>15 may be reflected on your scientific literature and</p> <p>16 Other Sources List?</p> <p>17 A. I don't think so, no.</p> <p>18 Q. Same question with respect to expert reports</p> <p>19 from other experts in this litigation, to the extent</p> <p>20 that you reviewed any such expert reports, they would</p> <p>21 be on your Scientific Literature and Other Sources</p> <p>22 List, Exhibit 13 to the deposition?</p> <p>23 A. Yes.</p> <p>24 Q. Are you familiar with UCSF Form 700-U?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 135</p> <p>1 Q. If you could provide to Ms. O'Dell or to the</p> <p>2 plaintiffs' counsel just a list -- an updated list --</p> <p>3 and it doesn't have to be a new list, but just the</p> <p>4 additional materials that you have considered</p> <p>5 relating to your opinions since you prepared your</p> <p>6 July 2nd, 2021, expert report. Can you do that?</p> <p>7 A. Yes.</p> <p>8 Q. Were there any fees paid with respect to any</p> <p>9 of these journal submissions that I have asked you</p> <p>10 about?</p> <p>11 A. No.</p> <p>12 Q. Have you communicated with any other</p> <p>13 plaintiff expert in the ovarian cancer talc</p> <p>14 litigation?</p> <p>15 A. So not in a meaningful way, but we were</p> <p>16 together waiting for our turn to testify at the</p> <p>17 Kleiner case.</p> <p>18 Q. Dr. Wolf was there; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. There may have been other plaintiff experts</p> <p>21 there?</p> <p>22 A. Yes.</p> <p>23 Q. Aside from any discussions that you may have</p> <p>24 had at the Kleiner trial with plaintiff experts, have</p> <p>25 you communicated with any plaintiff expert in the MDL</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. All right. UCSF requires the filing of a</p> <p>2 Form 700-U by all persons employed by UC or CSU who</p> <p>3 have principal responsibility for a research project</p> <p>4 if the project is to be funded or supported in whole</p> <p>5 or in part by a contract or grant; is that your</p> <p>6 understanding generally?</p> <p>7 A. Yes.</p> <p>8 Q. Are you aware UCSF has guidelines for the</p> <p>9 disclosure and review of financial interest in</p> <p>10 private sponsors of research?</p> <p>11 A. Yes.</p> <p>12 Q. Are you aware of APM, dash, 028 guidelines</p> <p>13 for disclosure and review of financial interest in</p> <p>14 private sponsors of research?</p> <p>15 A. Yes.</p> <p>16 Q. Are you aware UCSF has, under their</p> <p>17 consulting agreements Web page, a provision that the</p> <p>18 consulting activities should not use any UCSF</p> <p>19 resources, such as personnel or space?</p> <p>20 A. Yes.</p> <p>21 Q. Has a Form 700-U been completed and</p> <p>22 submitted with respect to any of your activities</p> <p>23 relating to the unpublished study?</p> <p>24 A. No.</p> <p>25 Q. And why is that?</p>

<p style="text-align: right;">Page 138</p> <p>1 A. That rule is if research is sponsored, that 2 you have to file that form. The research that I did 3 is not sponsored by an external entity, so the form 4 is not required. 5 Q. Who is sponsoring the research that you've 6 done? 7 A. It's just being done by UCSF faculty 8 members, several in addition to myself, without 9 external sponsorship. 10 Q. Are the plaintiff lawyers in any of the 11 talcum powder proceedings contributing in any way to 12 the research that you have done as it relates to your 13 unpublished study? 14 A. No, they haven't funded any portion of it. 15 Q. Do you believe that the APM-028 guidelines 16 for disclosure and review of financial interest and 17 private sponsors of research, do those guidelines 18 apply to the work that you're doing? 19 A. No, they don't. 20 Q. And why? Is this the same reason? 21 A. It's not funded by anyone. 22 Q. Are plaintiffs' counsel in any of the 23 ovarian cancer talc litigation paying you for work on 24 the unpublished study? 25 A. No, they are not.</p>	<p style="text-align: right;">Page 140</p> <p>1 MS. O'DELL: Objection. Asked and answered. 2 Go ahead, you may answer. 3 THE WITNESS: I have a faculty allowance 4 that I would have used to pay that. 5 BY MR. ZELLERS: 6 Q. Is UCSF funding your unpublished study? 7 MS. O'DELL: Object to the form. 8 THE WITNESS: So I am a faculty member at 9 UCSF. I have a certain amount of discretionary 10 funding through my department, if I needed to, to pay 11 for data extractions. I would have used that 12 funding. I think some people would consider that as 13 being paid for by UCSF because it's my faculty 14 allowance. 15 BY MR. ZELLERS: 16 Q. My understanding is that has not occurred; 17 is that correct? 18 A. I'm sorry. I don't understand the question. 19 Q. Sure. My question was, is UCSF funding the 20 study? And I understood your response to be, well, 21 if I needed money to pay for sister study data, or if 22 I needed money to pay for the Open JAMA publication, 23 they might, but at least not as of today? 24 A. So you're correct. None of those things 25 were -- no money was taken for that.</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. Are they paying or supporting or 2 contributing to either Dr. Woolen or Dr. Lazar's 3 work? 4 A. No, they are not. 5 Q. Have you submitted or has anyone submitted 6 any invoices to plaintiffs' counsel for your work or 7 any member of your team's work on the unpublished 8 study? 9 A. No. 10 Q. You made a request, an external 11 collaboration request, for the sister study data; do 12 you remember that? 13 A. Yes. 14 Q. And in there you state that you had funding 15 to cover your study. Do you recall making that 16 statement? 17 A. Funding to cover data extraction that they 18 would do for my study, yes, I do. 19 Q. Where -- well, strike that. 20 Did you have to pay any of those funds? 21 A. No. 22 Q. Where were you going to get those funds to 23 pay for the data extraction relating to any sister 24 study data? 25 A. I would have --</p>	<p style="text-align: right;">Page 141</p> <p>1 But some people would suggest that I'm a 2 faculty member at UCSF, I am allowed to use my 3 faculty time to do work like this, which is how I did 4 that work. Some people would say, well, UCSF is 5 funding you as part of your regular position to have 6 time to do this kind of research. So that you could 7 think of it as UCSF is funding. There was no 8 explicit request or giving of money for this study. 9 Q. Do you consider and believe that UCSF is 10 funding your unpublished study? 11 A. Yes. 12 Q. Do you believe that UCSF has an interest in 13 your study? 14 A. To the degree that I am a UCSF faculty 15 member, and they care about the kind of research that 16 faculty members do because they think it's in the 17 public good, so I think they have that kind of 18 interest in the study. I don't think they have a 19 particular interest in the particular topic that I'm 20 researching. 21 Q. Did you request approval to do your 22 unpublished study? 23 A. No. No such approval was needed. 24 Q. Did you request approval to have Dr. Woolen 25 or Dr. Lazar, or anyone else involved from UCSF,</p>

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1 assist you in the study?

2 A. No. There's no such process, whereby -- as

3 a faculty member, I get to choose what research I

4 want to perform, and so I chose to do this, and the

5 same thing for the other physicians.

6 Q. There are no forms or approvals that you

7 needed to go through in order to be able to do that

8 research --

9 A. No.

10 Q. -- is that right?

11 A. That's correct.

12 Q. Did you apply for an individual investigator

13 grant with UCSF for your study?

14 A. I did not.

15 Q. Dr. Woolen is currently funded by a UCSF

16 Department of Radiology and Biomedical Imaging seed

17 grant and a Seamen's grant; is that your

18 understanding?

19 A. Yes.

20 Q. Other than being an Assistant Professor at

21 UCSF, is Dr. Woolen being paid for his time working

22 on the unpublished study?

23 A. No.

24 Q. Dr. Lazar, the statistician, she became

25 involved in the unpublished study around January 30th

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1 of 2020?

2 A. I -- I don't remember exactly, but that

3 sounds about right.

4 Q. Generally, do you recall going to CTSI

5 Consultation Services and saying we need immediately

6 the help of a biostatistician?

7 A. Yes.

8 Q. Dr. Lazar responded; is that right?

9 A. Yes.

10 Q. And she has done the statistical analyses

11 with respect to the unpublished study; is that right?

12 A. Yes.

13 Q. Does either Anne Lazar or CTSI bill for

14 their work on the unpublished study?

15 A. Yes.

16 Q. And who did they bill?

17 A. I have paid for the consulting through my

18 discretionary account at UCSF.

19 Q. Other than Dr. Lazar and CTSI, have you paid

20 anyone else with respect to the unpublished study

21 from your discretionary fund?

22 A. No.

23 Q. Have plaintiff lawyers reimbursed you in any

24 manner for the services of Dr. Lazar or a CTSI?

25 A. No, they have not paid any part of the

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1 unpublished work.

2 Q. Susannah McIntyre, she's a research

3 assistant?

4 A. Yes.

5 Q. Has she been paid with respect to her work,

6 in terms of searching and obtaining studies?

7 A. No. That's part of her job.

8 Q. Same question with respect to Evans

9 Whittaker. He's a health informationist?

10 A. No. It's part of his job in the library.

11 Q. So he has not been paid separately from just

12 the salary that he makes at UCSF; is that right?

13 A. Correct.

14 Q. You've listed in your amended report, and

15 specifically on your Scientific Literature and Other

16 Sources, Exhibit 13, a number of reports and testing

17 by Dr. Longo and Dr. Rigler; is that right?

18 A. Yes.

19 Q. I believe we covered before, but you don't

20 hold yourself out to be a geologist or a mineralogist

21 or an expert that looks at a sample, be it a sample

22 of talc or some other sample, to try to identify

23 asbestos?

24 A. No.

25 Q. Have you ever met Dr. Longo or Dr. Rigler?

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1 A. I have not.

2 Q. Ever spoken to Dr. Longo or Dr. Rigler?

3 A. No, I have not.

4 Q. Your amended report -- let me withdraw.

5 You amended your report to include a number

6 of references to fibrous talc. Do you recall making

7 that change?

8 MS. O'DELL: Object to the form.

9 BY MR. ZELLERS:

10 Q. Take a look at the redlined amended report.

11 So we marked that as Deposition Exhibit 11 --

12 A. Yes.

13 Q. -- and specifically look at pages 24 and 25.

14 MS. O'DELL: Dr. Smith-Bindman is "Yes," a

15 response that you're looking at it in answer to the

16 question.

17 THE WITNESS: I'm sorry. Yes, I am looking

18 for page --

19 MR. ZELLERS: 24 to 25.

20 THE WITNESS: And I think one of the reasons

21 I get confused with this document is the numbers can

22 be from the first further revised. So when you say

23 page 24 --

24 MR. ZELLERS: There's a page number at the

25 bottom, it says 24, and then there's a page number at

<p style="text-align: right;">Page 146</p> <p>1 the bottom, and 25 it actually shows a strikethrough.</p> <p>2 THE WITNESS: Yes, I'm on page 24. Thank</p> <p>3 you.</p> <p>4 BY MR. ZELLERS:</p> <p>5 Q. If you look here, you can see -- withdraw.</p> <p>6 You're familiar with redlined documents;</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. And you can see that on those pages you have</p> <p>10 inserted reference to fibrous talc, to that term?</p> <p>11 MS. O'DELL: Object to the form.</p> <p>12 THE WITNESS: I'm sorry. I'm not sure what</p> <p>13 your question is.</p> <p>14 BY MR. ZELLERS:</p> <p>15 Q. My question is, did you add the term</p> <p>16 "fibrous talc" to your amended report?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 THE WITNESS: So what I'm looking at is I</p> <p>19 moved the word from one part of the sentence to the</p> <p>20 end of the sentence.</p> <p>21 BY MR. ZELLERS:</p> <p>22 Q. Where are you looking, Doctor?</p> <p>23 A. The only redline I see on page 24 is -- one,</p> <p>24 two, three, four -- five rows -- five lines from the</p> <p>25 bottom. I said:</p>	<p style="text-align: right;">Page 148</p> <p>1 A. Yes.</p> <p>2 Q. -- that in your amended report --</p> <p>3 A. Yes.</p> <p>4 Q. -- you use the term "fibrous talc." Do you</p> <p>5 agree with that?</p> <p>6 A. Yes.</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 BY MR. ZELLERS:</p> <p>9 Q. What is fibrous talc?</p> <p>10 A. Talc can come in very -- in a range of</p> <p>11 appearances. The most common is what's called platy</p> <p>12 talc. It has a sheet form.</p> <p>13 Fibrous talc is defined by a size criteria.</p> <p>14 It's long and thin, and it has an appearance that</p> <p>15 looks like a fiber, in a very similar appearance to</p> <p>16 asbestos. So it's a characterization of the</p> <p>17 appearance of talc as distinct from platy talc that's</p> <p>18 been associated with greater harm/risk.</p> <p>19 Q. Where did you learn that?</p> <p>20 A. I think mostly by reading IARC reports from</p> <p>21 2010, maybe, and 2012, and over the years.</p> <p>22 Q. Are you aware the IARC report of 2012, that</p> <p>23 deals with asbestos and asbestiform; correct?</p> <p>24 MS. O'DELL: Object to the form.</p> <p>25 THE WITNESS: I know that report includes a</p>
<p style="text-align: right;">Page 147</p> <p>1 (Reading) IARC also included that</p> <p>2 that categorization to all forms of</p> <p>3 asbestos and to talc-containing</p> <p>4 asbestiform fibers, in parenthesis,</p> <p>5 talc and a fibrous cutout, delete</p> <p>6 it, and asbestiform added or</p> <p>7 fibrous talc (end of reading).</p> <p>8 BY MR. ZELLERS:</p> <p>9 Q. You then go on and say:</p> <p>10 (Reading)IARC concluded that</p> <p>11 fibrous talc is a Group 1</p> <p>12 carcinogen (end of reading).</p> <p>13 Is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And that appears to be a new statement; is</p> <p>16 that right?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 THE WITNESS: I remember spending a lot of</p> <p>19 time at my first deposition discussing this issue</p> <p>20 with you. So I think that's how it got added</p> <p>21 afterwards.</p> <p>22 BY MR. ZELLERS:</p> <p>23 Q. So here's my question --</p> <p>24 A. I can't tell if this sentence is new or old.</p> <p>25 Q. All right. I will represent to you --</p>	<p style="text-align: right;">Page 149</p> <p>1 characterization of both asbestos and fibrous talc as</p> <p>2 Group 1 carcinogens.</p> <p>3 BY MR. ZELLERS:</p> <p>4 Q. And I'm going to represent to you that</p> <p>5 nowhere in IARC 2012 is the term "fibrous talc" used.</p> <p>6 Do you believe you have seen "fibrous talc" in that</p> <p>7 IARC monogram?</p> <p>8 A. Yes.</p> <p>9 Q. Did anyone request, and specifically</p> <p>10 plaintiff lawyers, that you include the term "fibrous</p> <p>11 talc" in your amended report?</p> <p>12 MS. O'DELL: Object to the form. Don't</p> <p>13 answer that question. It's protected by the</p> <p>14 attorney-client work product privilege.</p> <p>15 MR. ZELLERS: I disagree, but I'm going to</p> <p>16 move on.</p> <p>17 THE WITNESS: Can I just state, your</p> <p>18 question assumes that that word was not in the</p> <p>19 unamended report. Is that what you're saying?</p> <p>20 BY MR. ZELLERS:</p> <p>21 Q. I've asked if you included "fibrous talc" in</p> <p>22 your amended report. I think you have agreed that</p> <p>23 you did.</p> <p>24 A. Yes.</p> <p>25 Q. I asked if you accept or agree that the term</p>

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1 "fibrous talc" was never used in IARC 2012. You have
 2 answered that question.

3 I asked if anyone suggested to you,
 4 specifically plaintiff lawyers, to put the word
 5 "fibrous talc" into your report. Ms. O'Dell has
 6 objected. So I'm ready to move on.

7 Are you okay, Doctor?

8 A. Yes.

9 Q. Have you ever looked at information from the
 10 Bureau of Mines regarding mineralogy, like
 11 asbestiform and fibrous, and things like that?

12 MS. O'DELL: US Bureau of Mines?

13 MR. ZELLERS: Yeah.

14 THE WITNESS: I'm going to say I have seen a
 15 bunch of documents, but I have to see it to be able
 16 to say whether that's one I've seen or not.

17 BY MR. ZELLERS:

18 Q. Is fibrous talc the same as talc fibers and
 19 talc-containing asbestos fibers?

20 MS. O'DELL: Object to the form.

21 Would you mind repeating your question?

22 MR. ZELLERS: Sure.

23 Q. Is fibrous talc the same as talc fibers and
 24 talc-containing asbestos fibers?

25 MS. O'DELL: Objection to the form.

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1 THE WITNESS: I think that you're -- I think
 2 the way you phrase that question, as asked, conflates
 3 two different concepts. I'm not sure if you're
 4 asking me if they are the same thing or different.
 5 But I think there are two concepts in there.

6 MR. ZELLERS: Well, my --

7 MS. O'DELL: Excuse me. Please finish. If
 8 you are finished, great. I just didn't know if you
 9 were.

10 THE WITNESS: I wasn't quite finished.

11 MR. ZELLERS: Go ahead, finish.

12 THE WITNESS: I think one question that was
 13 asked was are fibrous talc and talc fibers the same.
 14 If that's part of the question, to me that's the
 15 same. That's separate from asbestiform fibers.

16 BY MR. ZELLERS:

17 Q. You believe, or at least it's your
 18 understanding, that fibrous talc is synonymous with
 19 talc fibers and talc-containing asbestiform fibers?

20 A. That's not my understanding.

21 Q. That's not your understanding?

22 A. No.

23 Q. All right. Talc -- withdraw.

24 Fibrous talc is synonymous with talc fibers?

25 A. Yes.

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1 Q. Fibrous talc is --

2 MS. O'DELL: Excuse me. Did you say
 3 "fibrous talc" or just "talc"?

4 MR. ZELLERS: No. I said, "Fibrous talc is
 5 synonymous with talc fibers."

6 Q. That's your understanding?

7 A. I mean, fibrous talc is one appearance of
 8 talc that reflects talc fibers. Those two things are
 9 the same. I'm not saying that they are always the
 10 same. But "fibers," if you put it before the word
 11 "talc" or after the word "talc," my understanding is
 12 that's the same thing, and it's different than
 13 asbestos fibers.

14 BY MR. ZELLERS:

15 Q. You would agree those are not terms you use
 16 every day in terms of your professional work?

17 A. That's correct.

18 Q. These are terms that you've learned about
 19 with respect to the work you've done in the ovarian
 20 cancer talc litigation; is that right?

21 A. Yes.

22 Q. In terms of a precise definition of each of
 23 those terms, you would look to a geologist or a
 24 mineralogists or an expert in those particular
 25 areas?

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1 MS. O'DELL: Object to the form.

2 THE WITNESS: If you're asking if I could
 3 look at an electron microscope and make a
 4 determination if a fiber is -- has the right
 5 proportion to be a reflection of fibrous talc, I
 6 don't have the expertise to do that.

7 BY MR. ZELLERS:

8 Q. And specifically my question was: In order
 9 to distinguish -- or if I ask you to distinguish
 10 between and among fibrous talc, talc fibers,
 11 talc-containing asbestos fibers, you've answered my
 12 questions to the best of your ability; correct?

13 MS. O'DELL: Objection to the form.

14 THE WITNESS: Yes.

15 BY MR. ZELLERS:

16 Q. And you would agree that there are other
 17 experts that deal with those terms every day;
 18 correct?

19 A. So I am not an expert geologist. When I
 20 have read the literature, I understand the
 21 conclusions that IARC has made, based on what is the
 22 risk of platy talc versus what is the risk of fibrous
 23 talc or talc-containing fibers.

24 Q. Do you understand that since your first
 25 deposition, that at least in the MDL, the parties are

<p style="text-align: right;">Page 154</p> <p>1 conducting discovery in a small number of potential</p> <p>2 cases to go to trial?</p> <p>3 A. I don't have a deep understanding, but I</p> <p>4 know they are doing something like that.</p> <p>5 Q. All right. Are you aware of any of the</p> <p>6 specific plaintiffs or the names of any of the</p> <p>7 plaintiffs that are in the smaller potential trial</p> <p>8 pool?</p> <p>9 A. I am not.</p> <p>10 Q. Have you reviewed any medical records for</p> <p>11 any of the plaintiffs in the pool of potential trial</p> <p>12 cases?</p> <p>13 A. I have not.</p> <p>14 Q. Have you requested the opportunity to look</p> <p>15 at any medical records of any of the plaintiffs in</p> <p>16 the set of potential trial cases?</p> <p>17 A. I have not.</p> <p>18 Q. Are you aware of the types of ovarian</p> <p>19 cancers that any of the plaintiffs in the pool of</p> <p>20 potential trial cases have?</p> <p>21 A. I believe I was told that there are</p> <p>22 different kinds, but not -- but I don't know more</p> <p>23 than that about the cases.</p> <p>24 Q. Are you aware of any of the specific risk</p> <p>25 factors that any of the plaintiffs in the pool of</p>	<p style="text-align: right;">Page 156</p> <p>1 opportunity for me to think about some of these</p> <p>2 issues more, and I wanted to focus more broadly on</p> <p>3 ovarian cancer, which is what I thought the</p> <p>4 literature supported, and not focus quite as much on</p> <p>5 serous.</p> <p>6 I wanted to make it a more general opinion,</p> <p>7 and so I thought the strongest way to support that</p> <p>8 was to show the graph with all cancer types.</p> <p>9 Q. And then you amended or changed your</p> <p>10 conclusion -- and I'm looking now on page 65 of the</p> <p>11 redline -- "New Systematic Meta-Analysis Review:</p> <p>12 Summary." Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. You amended your conclusion to state:</p> <p>15 (Reading) The results of the more</p> <p>16 focused review of studies on</p> <p>17 regular talcum powder use and</p> <p>18 ovarian cancer risk were consistent</p> <p>19 and indicate an approximate</p> <p>20 43 percent increase in risk of</p> <p>21 cancer related to routine talcum</p> <p>22 powder exposure compared to no</p> <p>23 exposure (end of reading).</p> <p>24 Is that correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 155</p> <p>1 potential trial cases have?</p> <p>2 A. No.</p> <p>3 Q. With respect to your -- or any amendments to</p> <p>4 the systematic meta-analysis, in your updated or</p> <p>5 amended MDL report, you removed the Forrest Plot that</p> <p>6 showed the odds of ovarian cancer associated with</p> <p>7 regular use of talcum powder products and invasive</p> <p>8 serous cancer; is that right?</p> <p>9 A. I believe that that is correct.</p> <p>10 Q. Do you want to look at -- why don't you take</p> <p>11 a look at the redline amended report, page 65.</p> <p>12 A. Yes.</p> <p>13 Q. Why did you delete that Forrest Plot from</p> <p>14 your amended report? The Forrest Plot that --</p> <p>15 MS. O'DELL: I'm sorry.</p> <p>16 MR. ZELLERS: Ms. O'Dell, page 65,</p> <p>17 Deposition Exhibit 11, the redline expert report.</p> <p>18 Q. The Forrest Plot dealt with invasive serous</p> <p>19 cancer; correct?</p> <p>20 A. Yes.</p> <p>21 Q. You removed that from your amended report;</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Why did you do that?</p> <p>25 A. I wanted -- the amended report was an</p>	<p style="text-align: right;">Page 157</p> <p>1 Q. This 43 percent increase in risk, you're now</p> <p>2 including all epithelial ovarian cancer subtypes, and</p> <p>3 you've dropped the focus on invasive serous cancer;</p> <p>4 is that right?</p> <p>5 A. I think the 43 percent is in the figure that</p> <p>6 was in both -- both versions of it. So I just</p> <p>7 summarized -- I chose to highlight the 43 percent</p> <p>8 increase in all cancer in this section rather than</p> <p>9 the 50 percent increase in serous cancer.</p> <p>10 Q. You agree that understanding ovarian cancer</p> <p>11 histological types is important because the risk</p> <p>12 factors, etiology and genetics of ovarian cancer, can</p> <p>13 vary by histological type; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. You agree that the importance of talcum</p> <p>16 powder products as a risk factor or a cause can also</p> <p>17 vary by type?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 BY MR. ZELLERS:</p> <p>20 Q. I'm reading from your report --</p> <p>21 A. Yes.</p> <p>22 Q. -- your amended report, page 8?</p> <p>23 A. Yes.</p> <p>24 Q. And you agree that epidemiological studies</p> <p>25 will have the greatest ability to document a clear</p>

<p style="text-align: right;">Page 158</p> <p>1 association between serous ovarian cancer types and 2 talcum powder products if a connection exists? 3 A. Yes. 4 Q. You did not a separate Bradford Hill 5 analysis regarding ovarian cancer subtypes, such as 6 clear cell, endometrioid or mucinous; correct? 7 A. Correct, I did not. 8 Q. You have not done any analysis of the 9 epidemiology on clear cell, endometrioid or mucinous 10 cancer as it relates to talcum powder; correct? 11 MS. O'DELL: Object to the form. 12 THE WITNESS: Correct. 13 BY MR. ZELLERS: 14 Q. And your opinion is -- and I'm reading 15 amended report page 11: 16 (Reading) When assessing the 17 carcinogenicity of talcum powder 18 products, this should focus on 19 invasive serous carcinoma as the 20 most important cancer, based on 21 prognosis, and the most reliable 22 cancer to identify, based on the 23 histology and understanding of 24 cancer behavior (end of reading). 25 Is that correct?</p>	<p style="text-align: right;">Page 160</p> <p>1 cancer to identify, based on 2 histology and understanding of 3 cancer behavior (end of reading). 4 Did I read that correctly? 5 A. Yes. 6 Q. All right. You would agree that three of 7 the ten studies -- I guess it's 11 studies -- let me 8 withdraw. 9 So now we're looking at your MDL systematic 10 review; is that right? 11 A. It's your question. 12 Q. All right. That's what I'm looking at. And 13 in that review there's ten studies; is that right? 14 A. Yes. 15 Q. Would you agree that three of the ten 16 studies in your MDL systematic review don't provide 17 data for mucinous, endometrioid, or clear cell 18 subtypes? 19 MS. O'DELL: Object to the form. 20 BY MR. ZELLERS: 21 Q. And, Doctor, for these questions -- and I 22 don't have a lot of time remaining here, so you can 23 either say "Yes," "No," or "I don't recall." 24 A. I don't remember. 25 MS. O'DELL: Or "I need to look at the</p>
<p style="text-align: right;">Page 159</p> <p>1 A. I'm sorry. You said you were reading from 2 page 11? 3 Q. Yes. 4 A. And my page 11 is essentially blank. 5 There's just one word on that page. 6 Q. I'm sorry, Doctor, let me take a look. I'm 7 looking at your amended report. 8 A. The redline version or the -- 9 Q. No, I'm sorry. Take a look, if you will, at 10 your amended, the non-redline version -- 11 A. Yes. 12 Q. -- that we marked as Exhibit 9. 13 A. Yes. I'm there. 14 Q. And if you see what I read was the second 15 paragraph in your report. 16 A. The second paragraph under, "Risk Factors," 17 at the bottom of page 7? 18 Q. No. The first full paragraph on page 11 of 19 your amended report, where you state: 20 (Reading) In summary, when 21 assessing the carcinogenicity of 22 talcum powder products, this should 23 focus on invasive serous carcinoma 24 as the most important cancer, based 25 on prognosis, and the most reliable</p>	<p style="text-align: right;">Page 161</p> <p>1 study." 2 THE WITNESS: I don't remember without 3 having the study in front of me. 4 BY MR. ZELLERS: 5 Q. Do you know whether or not Booth 1989, 6 Whitmore 1988, or Wu 2009 do not provide data on 7 ovarian cancer subtypes? 8 A. I don't know that without looking at the 9 paper. 10 Q. Do you know that Schildkraut 2016 only 11 reports data for serous versus nonserous? 12 A. I don't know that either offhand. 13 Q. Clear cell, are you aware only two of the 14 ten studies you include in your meta-analysis 15 provides data for clear cell cancers? 16 A. I don't know that offhand. 17 Q. Are you aware those two studies are Cramer 18 2016 and Mills 2004? You would need to look at the 19 studies to confirm that; is that right? 20 A. Yes. 21 MS. O'DELL: Object to the form. 22 BY MR. ZELLERS: 23 Q. Do you recall that Cramer 2016 found that 24 talc was not associated with clear cell cancers? 25 A. I don't recall that.</p>

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1 MR. ZELLERS: Let's go off the record.
 2 THE REPORTER: Off the record at 1:36 p.m.
 3 (Recess taken.)
 4 THE REPORTER: Back on the record at
 5 1:39 p.m.
 6 MR. ZELLERS: Dr. Smith-Bindman, let me hand
 7 you what we will mark as Deposition Exhibit 17, the
 8 Cramer 2016 paper.
 9 (Exhibit No. 17 was marked.)
 10 MR. ZELLERS: I will hand you what we will
 11 mark as Deposition Exhibit 18, the Mills 2004 paper.
 12 (Exhibit No. 18 was marked.)
 13 BY MR. ZELLERS:
 14 Q. Is it your recollection, Dr. Smith-Bindman,
 15 that these are two of the ten studies that you
 16 included --
 17 A. Yes.
 18 Q. -- in your meta-analysis?
 19 A. Yes.
 20 Q. Go to Deposition Exhibit 17, the Cramer
 21 paper, and specifically on page 340. And you're free
 22 to look at anything you want, but --
 23 A. Yes.
 24 Q. -- I'm looking at page 340. And I'm looking
 25 down at the bottom of the right-hand column, oh,

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1 about 12, 14 lines from the bottom, where the authors
 2 state:
 3 (Reading) Talc use was not
 4 associated with clear cell or
 5 mucinous invasive epithelial
 6 ovarian cancer regardless of
 7 menopausal status (end of reading).
 8 Did I read that correctly?
 9 A. Yes.
 10 Q. Does that refresh your recollection, at
 11 least of Dr. Cramer's findings in that particular
 12 paper?
 13 A. Yes.
 14 Q. Take a look, if you will, then, at
 15 Deposition Exhibit 18. This is the Mills 2004 paper.
 16 A. Yes.
 17 Q. And I'm looking on page 460, at the bottom
 18 of the right-hand column.
 19 A. Yes.
 20 Q. The last --
 21 A. I'm sorry. I have the document.
 22 Q. Understood.
 23 A. Sorry.
 24 MR. ZELLERS: And Ms. O'Dell will be happy
 25 that I have not asked a question.

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1 MS. O'DELL: Yes. I just want to make sure
 2 the record is clear they are not yeses where --
 3 MR. ZELLERS: I like our rhythm, though,
 4 Dr. Smith-Bindman.
 5 MS. O'DELL: We don't want "Yes" where they
 6 are unintended.
 7 BY MR. ZELLERS:
 8 Q. All right. So page 460, right-hand column,
 9 last full paragraph, Dr. Mills and the authors state:
 10 (Reading) The multi-variant
 11 adjusted odds ratio were evaluated
 12 primarily among those with a serous
 13 or mucinous invasive tumor and were
 14 lower among women with other cell
 15 types or with borderline tumors
 16 (end of reading).
 17 And then there's a reference to Table 3. Do
 18 you see that?
 19 A. I do.
 20 Q. And I won't take the time to go through each
 21 of the findings on Table 3, but there's a specific
 22 data set for endometrioid and for clear cell cancers,
 23 is that right, listed, in -- and mucinous in Table 3?
 24 A. In Table 3 they show the numbers of cancer.
 25 So for some of the categories they had very few

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1 cancers.
 2 So the point estimates, I'm not sure I would
 3 agree with their conclusions. There's definitely the
 4 most data for all, and there's the most data for
 5 serous because it's the most common. But some of the
 6 other point estimates have a very broad range, where
 7 some of the risks are quite high.
 8 You know, there's just 12 cases, for
 9 example, of clear cell. So it's hard to know because
 10 there were so few. The confidence interval actually
 11 goes higher than serous, but also goes lower than
 12 serous. It goes across a broad range.
 13 Q. And that, in essence, is the problem with
 14 the subgroups, is that there's just a small number
 15 reported in the studies that even address and break
 16 out the subgroups; is that true?
 17 A. That's true.
 18 MS. O'DELL: Object to the form.
 19 MR. ZELLERS: That's okay.
 20 Q. Did you answer?
 21 A. Yes.
 22 Q. Doctor, for mucinous, are you aware,
 23 similarly, that a number of the studies did not find
 24 an association, in terms of an increase in risk with
 25 respect to a mucinous ovarian cancer and talcum

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1 powder use?

2 A. I mean, you're asking a general question,

3 and I can't answer it generally. But I can answer

4 for the paper that's in front of me, and that has a

5 higher association with mucinous cancer.

6 Q. So you're looking at Mills; is that right?

7 A. Table 3, mucinous has a multi-variant odds

8 ratio of 2.56, which is the highest one on that

9 table. It has a quite high confidence interval for

10 sure. It goes from 0.9 to 7.4. But I wouldn't look

11 at that number and conclude that that's associated.

12 Q. That's a huge confidence interval?

13 A. A huge confidence.

14 Q. And you would agree with me that that's not

15 a statistically significant finding; is that right?

16 A. In this case, it tells me that we don't have

17 enough mucinous cancers to know what the -- what the

18 association is.

19 Q. All right. Do you recall the Chang study?

20 A. I don't.

21 Q. And the findings of Chang?

22 A. I don't.

23 MR. ZELLERS: Take a look at the Chang

24 study. We will mark that as Exhibit 19.

25 (Exhibit No. 19 was marked.)

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1 THE WITNESS: I have the paper.

2 BY MR. ZELLERS:

3 Q. And the Chang study is another study that is

4 included in your meta-analysis; is that right?

5 A. Yes, it is.

6 Q. Go to, if you will, to page 2398. Do you

7 see on the right column, second to last paragraph?

8 A. Yes.

9 Q. Dr. Chang and the authors make the

10 statement:

11 (Reading) Only the risk for

12 invasive carcinoma was

13 statistically significant. No

14 differences in risk with respect to

15 serous, mucinous, or endometrioid

16 tumors were observed in our data

17 (end of reading).

18 Is that the conclusion?

19 A. That is the conclusion.

20 Q. The Cook study -- Cook is another paper that

21 was included in your meta-analysis; is that right?

22 A. Yes.

23 MR. ZELLERS: And we will mark that as 20,

24 Deposition Exhibit 20.

25 (Exhibit No. 20 was marked.)

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1 BY MR. ZELLERS:

2 Q. And my specific question to you,

3 Dr. Smith-Bindman, goes to page 462, the left column,

4 first paragraph, and where the authors state:

5 (Reading) Whereas, no elevation in

6 risk was noted for the small number

7 of women with mucinous tumors or

8 endometrioid tumors (end of

9 reading).

10 And I have not read the relative risk or the

11 confidence intervals. But did I read that correctly?

12 MS. O'DELL: Object to the form.

13 THE WITNESS: You have read that correctly.

14 (Exhibit No. 21 was marked.)

15 BY MR. ZELLERS:

16 Q. All right. Gertig 2000. We have talked

17 earlier about Gertig 2000. That's the publication

18 relating to the Nurses' Health Study, the first one;

19 is that right?

20 A. Yes.

21 Q. And this is where you communicated with

22 Dr. O'Brien, and Dr. O'Brien sent you some updated

23 information; is that right?

24 A. Yes.

25 Q. If we look, though, at Gertig, the

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1 publication, on page 250, the middle column,

2 Dr. Gertig states, and the authors:

3 (Reading) We observed a modest

4 increase in risk for ever talc use

5 for serous invasive cancers --

6 relative risk equals 1.40;

7 95 percent confidence interval,

8 10.02 to 1.91 -- but not for all

9 serous cancers, paren, including

10 borderline cancers, closed paren,

11 endometrioid cancers or mucinous

12 cancers (end of reading).

13 Did I read that conclusion correctly?

14 A. You're just asking me if you're reading it

15 correctly, not if I agree with it?

16 Q. Well, do you agree with that?

17 A. I think all of these comments that there

18 isn't an elevated risk, I would not agree, looking at

19 the results, that the risks are -- that we know the

20 risks are not elevated.

21 Q. Well, they are not statistically --

22 MS. O'DELL: Sorry. Please finish.

23 THE WITNESS: So I don't consider whether or

24 not it crosses a p-value of 0.05 or 1.0 to be a black

25 or white, it's associated or not, which is sort of

<p style="text-align: right;">Page 170</p> <p>1 what I think you're suggesting, what the authors are 2 suggesting.</p> <p>3 I think that these have a wide confidence 4 interval, meaning we don't know the exact. But the 5 point, I submit, for some of these gives us the best 6 understanding of risk, but it goes some lower than 7 1.0 and some, you know, 1.6, 1.9.</p> <p>8 So I don't -- I think -- I think it is a 9 challenging question because there are not a lot of 10 cancers of these rare types. But this doesn't show 11 there's not an association. That's the only thing I 12 wanted to say.</p> <p>13 Q. Gertig 2000, the study you have in front of 14 you, what we marked as Exhibit 21, that's one of the 15 studies you included in your meta-analysis; is that 16 right?</p> <p>17 A. For the one that's in the report, yes.</p> <p>18 Q. All right. And at least in Gertig 2000, 19 that we're looking at, they did not find 20 statistically significant association or increased 21 risk for all serous cancers, endometrial cancers, or 22 mucinous cancers; is that correct?</p> <p>23 MS. O'DELL: Object to the form.</p> <p>24 THE WITNESS: They did not find the 25 statistical significance, if we use a 0.05 as a</p>	<p style="text-align: right;">Page 172</p> <p>1 Chang, which stated: 2 (Reading) Only the risks for 3 invasive carcinoma was 4 statistically significant, no 5 differences in risk with respect to 6 serous, mucinous or endometrioid 7 tumors were observed in our data 8 (end of reading). 9 And I'm looking back on page 2398.</p> <p>10 A. I do remember you reading that. But if you 11 look at the table in that paper, it shows an adjusted 12 odds ratio for mucinous of 1.585, with a confidence 13 interval that goes from 0.97 to 2.6. So almost 14 certainly that is a positive association. They just 15 needed a few more patients. But the p-value, if we 16 use the p-value of 0.07, it would be statistically 17 significant.</p> <p>18 The same thing with endometrioid. 19 Endometrioid has an odds ratio of 1.67 with an 20 adjusted confidence interval of 1.0 to 2.79. So that 21 one I think is statistically significant.</p> <p>22 So I think it's -- these do not confirm 23 there is not an association.</p> <p>24 Q. They neither confirm there's an association 25 or, at least in your opinion, refute an association;</p>
<p style="text-align: right;">Page 171</p> <p>1 threshold to call it statistically significant.</p> <p>2 It shows for the first entry all serous 3 cancers as a point estimate and the multi-variant 4 risk estimate of 1.26. So the most likely 5 explanation is that there's a 26 percent increase in 6 risk, and the truth lies somewhere between 0.94 and 7 1.7. So I wouldn't conclude that that's evidence 8 that there isn't disassociation.</p> <p>9 BY MR. ZELLERS:</p> <p>10 Q. It's a nonstatistical finding; can we agree 11 on that?</p> <p>12 A. Yes.</p> <p>13 Q. All right. Same set of questions with 14 respect to endometrioid. I don't need to go through 15 all the studies, I don't think.</p> <p>16 But would you agree that only six of the ten 17 studies that you included in your meta-analysis even 18 provided data for endometrioid cancers?</p> <p>19 MS. O'DELL: Object to the form.</p> <p>20 THE WITNESS: I told you, I wouldn't be able 21 to answer that without looking at the studies. I 22 just don't remember if they included them or don't.</p> <p>23 BY MR. ZELLERS:</p> <p>24 Q. You recall, I asked you questions about 25 Chang and had you read a particular paragraph from</p>	<p style="text-align: right;">Page 173</p> <p>1 correct?</p> <p>2 A. I think they do more than that. I think 3 they suggest an association. They don't prove an 4 association if we use a very hard line view of the 5 p-values. But I think the most likely result, 6 looking at Chang, is that there is an association.</p> <p>7 Q. And you're looking at the endometrioid 8 category; correct?</p> <p>9 A. Endometrioid and mucinous and serous, 10 borderline, not so sure, and invasive, yes.</p> <p>11 Q. You would agree, though, that you did not, 12 as part of your meta-analysis, do separate analyses 13 for clear cell, for mucinous, or for endometrioid; is 14 that right?</p> <p>15 A. That is correct. 16 (Exhibit No. 22 was marked.)</p> <p>17 BY MR. ZELLERS:</p> <p>18 Q. You're familiar with Health Canada; is that 19 right?</p> <p>20 A. Yes.</p> <p>21 Q. Were you familiar with -- well, let me 22 withdraw.</p> <p>23 You're aware they've issued a final 24 assessment; is that right?</p> <p>25 A. Yes.</p>

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1 Q. Were you aware of that before the lawyers
2 told you, or did you find that out on your own, if
3 you remember?
4 A. When the final report came out now, I knew
5 about it from earlier drafts from last year. And so
6 I think I knew about the earlier drafts. It might
7 have been from the lawyers, I don't remember. But it
8 got some publicity when this final report was
9 published.
10 Q. And I guess my question is, did the lawyers
11 tell you that there was a final assessment or did you
12 learn that on your own?
13 MS. O'DELL: Object to the question.
14 Communications with the lawyers, you know, are
15 privileged, and so to the degree they are -- you're
16 asking about a communication --
17 MR. ZELLERS: No, I'm asking --
18 MS. O'DELL: You asked about a
19 communication. To the degree you're asking about
20 that, I'm going to object and instruct
21 Dr. Smith-Bindman not to answer.
22 MR. ZELLERS: I believe that it is proper to
23 ask what materials were provided by the lawyers to
24 the doctor.
25 MS. O'DELL: I don't think that's what you

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1 asked, Mike. You asked for communications.
2 MR. ZELLERS: And that's fine.
3 MS. O'DELL: I'm not trying to give you a
4 hard time; you know that. I'm just saying that's
5 what you asked.
6 MR. ZELLERS: I understand you need to
7 protect your rights, and I understand that.
8 Q. Dr. Smith-Bindman, are you aware your
9 litigation report is cited as authority in the Health
10 Canada risk assessment?
11 A. I do know that.
12 Q. Did that surprise you?
13 A. That surprised me.
14 Q. Is it unusual to see in a scientific
15 publication a source as being expert litigation
16 reports?
17 A. That I don't know. I was surprised to see
18 it, but I don't know if that's typical or not
19 typical.
20 Q. In your experience, would that be unusual?
21 A. Again, I -- I'm not sure I know anything
22 about a topic that's been in the press the way this
23 has or in the courts the way this has. There have
24 been some -- absolutely some very well-known cases
25 that involve health care devices or exposures, I just

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1 happen not to have been involved in any of them.
2 Q. Did you at any time communicate with Health
3 Canada?
4 A. No, I did not.
5 Q. Did you communicate -- strike that.
6 Do you know how it was that your expert
7 litigation report was submitted to Health Canada?
8 A. I have no idea.
9 Q. Have you ever read of a public health agency
10 citing to litigation expert reports?
11 MS. O'DELL: Object to the form.
12 THE WITNESS: I don't know that I have any
13 experience to contribute to that question.
14 BY MR. ZELLERS:
15 Q. Well, my question is: Have you ever seen
16 it?
17 A. No, I haven't. But I'm not sure where I
18 would have seen that.
19 Q. You understand -- well, let me withdraw.
20 You've read the Health Canada final
21 assessment; is that right?
22 A. I have.
23 Q. And do you recall that Health Canada did not
24 find a clear dose-response for ovarian cancer?
25 MS. O'DELL: Object to the form. And just

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1 specific questions, if you wouldn't just mind putting
2 a copy in front of Dr. Smith-Bindman.
3 BY MR. ZELLERS:
4 Q. Do you need a copy, Dr. Smith-Bindman?
5 A. I would, if you want me to answer that
6 particular question.
7 Q. Take a look at Deposition Exhibit 22. Is
8 this the screening assessment for Health Canada?
9 A. Yes.
10 Q. Take a look at page 33, the second
11 paragraph.
12 A. Yes.
13 MS. O'DELL: Yes, you're there.
14 THE WITNESS: Yes, I'm on page 33.
15 BY MR. ZELLERS:
16 Q. Health Canada, the authors state at the
17 bottom, underneath "Biological Gradient:
18 (Reading) Collectively there is
19 significant exposure information
20 lacking to permit a fulsome
21 assessment of biological gradient
22 (end of reading).
23 Did I read that correctly?
24 A. I'm not there yet. So I didn't -- I see --
25 I think you read that sentence. I don't have any

<p style="text-align: right;">Page 178</p> <p>1 idea what that sentence means.</p> <p>2 Q. Well, biological gradient is the same as</p> <p>3 dose-response; is that right?</p> <p>4 A. I got that part of the sentence. There is</p> <p>5 significant --</p> <p>6 Q. Hold on.</p> <p>7 A. Yes, I got that part.</p> <p>8 Q. Do you agree with me that biological</p> <p>9 gradient is the same as dose-response?</p> <p>10 A. I do agree.</p> <p>11 Q. Have you done any analysis or considered the</p> <p>12 findings of Health Canada as it relates to</p> <p>13 dose-response?</p> <p>14 A. I have read this paragraph before, and I</p> <p>15 think a lot of studies showed some dose-response. So</p> <p>16 I think Health Canada is suggesting that there are</p> <p>17 some differences of opinion.</p> <p>18 So the first group of citations, some</p> <p>19 authors suggest that there is no evidence of a</p> <p>20 dose-response, and for that they have cited the</p> <p>21 defense lawyers, Johnson & Johnson. I don't know</p> <p>22 about names.</p> <p>23 Then they go on to cite the data. Several</p> <p>24 studies, Harlow, Terry, Cramer, Schildkraut, Gabriel</p> <p>25 do suggest a trend of increased OR with increased</p>	<p style="text-align: right;">Page 180</p> <p>1 A. I am on page 184.</p> <p>2 Q. If you look at the bottom, you wrote an</p> <p>3 email to Dr. Woolen and to Dr. Lazar:</p> <p>4 (Reading) Hi, my two cents is that</p> <p>5 we do not have any meaningful data</p> <p>6 to get at dose-response (end of</p> <p>7 reading).</p> <p>8 Is that what you wrote?</p> <p>9 A. Yes. Essentially all exposures are</p> <p>10 essentially daily.</p> <p>11 Q. (Reading) I would prefer not to</p> <p>12 explore something that we are using</p> <p>13 as a measure for dose-response</p> <p>14 where we think -- think it's a</p> <p>15 terrible measure, then get negative</p> <p>16 results and conclude we didn't have</p> <p>17 a good measure, so that is why is</p> <p>18 negative. If a terrible measure,</p> <p>19 we should not have looked (end of</p> <p>20 reading).</p> <p>21 Is that what you wrote?</p> <p>22 A. Other than the grammatical errors in my own</p> <p>23 sentences, yes, that's what I wrote.</p> <p>24 Q. All right. That means if you used daily</p> <p>25 exposure as a measure for dose-response, you were</p>
<p style="text-align: right;">Page 179</p> <p>1 cumulative exposure.</p> <p>2 And then with meta-analysis, and I think</p> <p>3 there are two that are cited, report there is a trend</p> <p>4 with duration and frequency of genital talc use and a</p> <p>5 slight association with respect to lengths of talc</p> <p>6 use.</p> <p>7 Q. All right. So do you agree, at least that</p> <p>8 the conclusion, collectively there is significant</p> <p>9 exposure information lacking to permit a fulsome</p> <p>10 assessment of biological gradient? That was the</p> <p>11 conclusion, at least in this section of Health</p> <p>12 Canada.</p> <p>13 A. I -- I'm sorry. I don't actually understand</p> <p>14 that sentence.</p> <p>15 Q. Okay. Then I --</p> <p>16 A. It's a weird sentence.</p> <p>17 Q. Then I will move on.</p> <p>18 A. Okay.</p> <p>19 Q. You have communicated to Drs. Woolen and</p> <p>20 Lazar that you do not believe that you have</p> <p>21 meaningful data to get at a dose-response; do you</p> <p>22 recall communicating that to them?</p> <p>23 A. Yes.</p> <p>24 Q. And take a look at page 184. That's</p> <p>25 Deposition Exhibit 4.</p>	<p style="text-align: right;">Page 181</p> <p>1 concerned you might get a negative result; correct?</p> <p>2 A. Yes.</p> <p>3 Q. You did read the Health Canada concern about</p> <p>4 the epidemiology for subtypes, and specifically that</p> <p>5 that epidemiology is inconsistent and underpowered?</p> <p>6 Do you recall reading that in the Health Canada</p> <p>7 report?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 What page?</p> <p>10 MR. ZELLERS: Well, generally page 17.</p> <p>11 THE WITNESS: Yes, I do see that, and I have</p> <p>12 read that.</p> <p>13 BY MR. ZELLERS:</p> <p>14 Q. (Reading) Health Canada was concerned</p> <p>15 that there are a number of</p> <p>16 different tumor types with</p> <p>17 characteristic histological</p> <p>18 features, distinct different</p> <p>19 molecular signatures and disease</p> <p>20 trajectories. Moreover, these</p> <p>21 tumors are heterogeneous and can</p> <p>22 arise from different tissues of the</p> <p>23 female reproductive tract,</p> <p>24 including the fallopian tube</p> <p>25 epithelium (end of reading).</p>

<p style="text-align: right;">Page 182</p> <p>1 Do you agree with that?</p> <p>2 A. Yes.</p> <p>3 Q. Health Canada then goes on to say that:</p> <p>4 (Reading) Ovarian tumors can be</p> <p>5 grouped into categories, epithelial</p> <p>6 ovarian cancer, germ cell tumors,</p> <p>7 gonadal, stromal tumors, and</p> <p>8 metastatic neoplasm. Epithelial</p> <p>9 variant cancers are often</p> <p>10 designated as Type I or Type II,</p> <p>11 with further subdivision within</p> <p>12 each type. Type I tumors have</p> <p>13 characteristics quite distinct from</p> <p>14 Type II tumors, and research</p> <p>15 supports that they have different</p> <p>16 molecular pathways and may not be</p> <p>17 ovarian in origin (end of reading).</p> <p>18 Do you agree with that?</p> <p>19 A. Yes.</p> <p>20 Q. Highgrade serous is a Type II ovarian cancer</p> <p>21 tumor; correct?</p> <p>22 A. Highgrade serous?</p> <p>23 Q. Yes.</p> <p>24 A. It's not an area I know a lot about, but I</p> <p>25 believe that is correct.</p>	<p style="text-align: right;">Page 184</p> <p>1 there is considerable uncertainty</p> <p>2 for how subgroup data should be</p> <p>3 examined, in particular, for the</p> <p>4 tumor subtypes (end of reading).</p> <p>5 Do you agree with that?</p> <p>6 A. Yes, I agree with that.</p> <p>7 MR. ZELLERS: Let's go off the record.</p> <p>8 THE REPORTER: Off the record at 2:06 p.m.</p> <p>9 (Recess taken.)</p> <p>10 THE REPORTER: Back on the record at</p> <p>11 2:16 p.m.</p> <p>12 BY MR. ZELLERS:</p> <p>13 Q. Dr. Smith-Bindman, you published a paper in</p> <p>14 2019 in JAMA since our last deposition. I think</p> <p>15 maybe you had a draft when I asked you questions</p> <p>16 earlier.</p> <p>17 But this -- you refer to it on page 9 of</p> <p>18 your amended report, and it's your paper, "Risk of</p> <p>19 Malignant Ovarian Cancer Based on Ultra Stenography</p> <p>20 Findings in a Large, Unselected Population."</p> <p>21 A. I am sorry. I got a little bit shuffled.</p> <p>22 Q. All right. You remember the paper; right?</p> <p>23 A. I remember the paper.</p> <p>24 Q. All right. The paper is about ovarian</p> <p>25 cancer; is that right?</p>
<p style="text-align: right;">Page 183</p> <p>1 Q. Clear cell, endometrioid, and mucinous and</p> <p>2 low-grade serous carcinoma ovarian cancer are Type I;</p> <p>3 is that right?</p> <p>4 A. That I -- that I don't know. I'm sorry.</p> <p>5 Could you just tell me where you're reading.</p> <p>6 Q. Well, that was a question.</p> <p>7 A. Oh, okay. So I remember that high-grade</p> <p>8 serous is a Grade II, but I don't actually know the</p> <p>9 other -- I don't know where low-grade serous or any</p> <p>10 of those other cancers fall.</p> <p>11 Q. I want to read one other section from the</p> <p>12 Health Canada paper, at the bottom of 17, "Tumor</p> <p>13 subtypes." Are you with me?</p> <p>14 A. Yes.</p> <p>15 Q. (Reading) Tumor subtypes are one</p> <p>16 of the many subgroup analyses</p> <p>17 conducted in several of the</p> <p>18 epidemiology studies and reviews.</p> <p>19 However, there was very little</p> <p>20 consistency in whether or how these</p> <p>21 subgroup analyses were conducted</p> <p>22 across the available studies,</p> <p>23 thereby leaving the analyses</p> <p>24 limited and likely underpowered</p> <p>25 (low sample sizes). Furthermore,</p>	<p style="text-align: right;">Page 185</p> <p>1 A. Yes.</p> <p>2 Q. And you thought it was important enough to</p> <p>3 dedicate a paragraph in your amended report talking</p> <p>4 about the paper; is that right?</p> <p>5 A. That seems to be the case.</p> <p>6 Q. You were familiar with JAMA's internal</p> <p>7 medicines conflict of interest and financial</p> <p>8 disclosures?</p> <p>9 A. Yes.</p> <p>10 Q. Do you agree that JAMA's conflict of</p> <p>11 interest policy is broad and requires a complete</p> <p>12 disclosure of any other relationship or activities</p> <p>13 that readers could perceive to have influenced or</p> <p>14 that give the appearance of potentially influencing</p> <p>15 what is written in the submitted work?</p> <p>16 A. Yes.</p> <p>17 Q. And that authors should err on the side of</p> <p>18 full disclosure?</p> <p>19 A. Yes. What I'm hesitating about is you told</p> <p>20 me this was published after the report, and I'm going</p> <p>21 to admit I don't remember when it was published.</p> <p>22 Q. Well, go to -- so we're looking at your</p> <p>23 Amended Expert Report; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And on page 9 --</p>

<p style="text-align: right;">Page 186</p> <p>1 A. Yep --</p> <p>2 Q. -- you make reference to your paper; is that</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. And do you give the publication date?</p> <p>6 A. Yes.</p> <p>7 Q. What's the publication date?</p> <p>8 A. In the References it's January 1st, 2019.</p> <p>9 Q. All right. Do you agree that serving as an</p> <p>10 expert in epidemiology in ovarian cancer and the</p> <p>11 litigation about ovarian cancer may be a potential</p> <p>12 conflict of interest that would require disclosure?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 THE WITNESS: I don't think that this paper</p> <p>15 had anything to do with the litigation. So, no, I</p> <p>16 don't agree that it would have to be disclosed. I</p> <p>17 don't even remember if I did or didn't disclose it,</p> <p>18 but I don't think it would have to be disclosed.</p> <p>19 BY MR. ZELLERS:</p> <p>20 Q. The article is a nested case-control study</p> <p>21 that finds that simple cysts are not associated with</p> <p>22 an increased risk of ovarian cancer; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. And that means that simple cyst should be</p> <p>25 considered normal findings and do not need</p>	<p style="text-align: right;">Page 188</p> <p>1 or ovarian masses, such as you describe in your</p> <p>2 paper?</p> <p>3 A. So what ovarian cancer typically looks like,</p> <p>4 which I know from my clinical work of diagnosing</p> <p>5 ovarian cancer, is the appearance of ovarian cancer</p> <p>6 is complicated cystic mass. That is what most</p> <p>7 ovarian cancer -- not all, but most ovarian cancer</p> <p>8 looks like.</p> <p>9 So if I believe talc can cause ovarian</p> <p>10 cancer, which is what I had said, then it would cause</p> <p>11 things that look like ovarian cancer, that turn out</p> <p>12 to be cancer, which are solid and cystic complex</p> <p>13 masses.</p> <p>14 Q. So even though you have an opinion that talc</p> <p>15 can cause the complex cyst or the ovarian masses</p> <p>16 referred to in your published article, you don't</p> <p>17 believe that any type of disclosure of your work as a</p> <p>18 plaintiff expert in this litigation was warranted or</p> <p>19 needed?</p> <p>20 A. The paper -- that is what I said, I agree.</p> <p>21 The paper is about not risk factors for</p> <p>22 cancer but the diagnosis by imaging for cancers, and</p> <p>23 I don't think there's any potential overlap there.</p> <p>24 Q. You are familiar with the O'Brien paper?</p> <p>25 You actually brought that with you here today; is</p>
<p style="text-align: right;">Page 187</p> <p>1 surveillance; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. In your opinion, and as you state in the</p> <p>4 article, it does more harm than good to monitor</p> <p>5 simple cyst; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. The paper found that complex cyst or solid</p> <p>8 masses are less common but are associated with a</p> <p>9 significantly increased risk of developing malignant</p> <p>10 cancer?</p> <p>11 A. Yes.</p> <p>12 Q. Do you have an opinion that talc can cause</p> <p>13 complex cyst or ovarian masses?</p> <p>14 A. Talc could cause ovarian cancer, and that is</p> <p>15 what ovarian cancer looks like.</p> <p>16 Q. You believe that talc can cause complex cyst</p> <p>17 and ovarian masses; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. What research or articles are you relying on</p> <p>20 for that statement?</p> <p>21 MS. O'DELL: Would you repeat the question,</p> <p>22 please?</p> <p>23 MR. ZELLERS: Sure.</p> <p>24 Q. What articles or research are you relying on</p> <p>25 for your opinion that talc use can cause complex cyst</p>	<p style="text-align: right;">Page 189</p> <p>1 that right?</p> <p>2 A. Yes.</p> <p>3 Q. In the O'Brien paper, are you aware none of</p> <p>4 the authors are experts in the talc litigation?</p> <p>5 A. I -- I have no idea.</p> <p>6 Q. All right. Let me ask the question</p> <p>7 differently.</p> <p>8 Do you have any knowledge or belief that any</p> <p>9 of the authors on the O'Brien paper are experts in</p> <p>10 the talc litigation?</p> <p>11 A. My answer would be the same, I have no idea</p> <p>12 if they are or not.</p> <p>13 Q. In O'Brien the authors pooled data from the</p> <p>14 four cohort studies; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. A pooled study means taking data from the</p> <p>17 cohort studies and analyzing it collectively rather</p> <p>18 than individually; is that right?</p> <p>19 A. It -- they -- they pooled the data from four</p> <p>20 studies and then actually analyzed the individual</p> <p>21 data from those four studies, as opposed to analyzing</p> <p>22 them by contributing to a summary estimate from each</p> <p>23 of the four contributing cohorts.</p> <p>24 Q. O'Brien was published in JAMA?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 190</p> <p>1 Q. JAMA is one of the world's most prestigious 2 and authoritative medical journals? 3 A. Yes. 4 Q. The pooled study included 252,745 women? 5 A. Yes. 6 Q. The total number of person years studied in 7 this pooled analysis was 3.8 million? 8 A. I'm checking, but that number sounds kind of 9 right. 10 Q. Well, you can look either at page 49 under 11 "Results," or the Table 2 on page 53. 12 A. I will go to 53. Yes. Uh-huh. 13 Q. At Table 2 the authors list the four cohort 14 studies, is that right, NHS, NHS-II, SIS and WHIOS; 15 is that right? 16 A. Yes. 17 Q. And you're familiar with each of those 18 cohort studies; correct? 19 A. Yes, I am. 20 Q. So if you go to Table 2, and go to the 21 right, in the last column, the adjusted hazard ratio 22 is 1.08 with a confidence interval of 0.99 to 1.17; 23 is that right? 24 MS. O'DELL: Are you on Table 2? 25 MR. ZELLERS: Let me make sure that I'm</p>	<p style="text-align: right;">Page 192</p> <p>1 Is that what you wrote? 2 A. Yes. 3 Q. But your criticism was addressed by the JAMA 4 reviewers when they responded to your study; right? 5 Remember when we looked at that? 6 MS. O'DELL: Objection. 7 THE WITNESS: The JAMA reviewers didn't 8 respond to my study. 9 BY MR. ZELLERS: 10 Q. Well, yes, they did -- I mean -- and I don't 11 mean that to be argumentative. 12 So you received comments from reviewers from 13 "JAMA Internal Medicine"; is that right? 14 A. Yes. 15 Q. And at least one of the reviewers -- and we 16 can go back and look at it, if we need to -- said 17 that: 18 (Reading) The association for 19 ever/never use is generally 20 reflective of regular talc/body 21 powder users not one-time use (end 22 of reading). 23 MS. O'DELL: What page are you reading from, 24 please? 25 MR. ZELLERS: Well, I'm reading from</p>
<p style="text-align: right;">Page 191</p> <p>1 looking at the right place. 2 Q. So you have Table 2; is that right? 3 A. I do. 4 Q. All right. And Table 2 has person years of 5 3,765,706; is that right? 6 A. Yes. 7 Q. And the result for ever used powder in the 8 genital area for all women is 1.08, with a confidence 9 interval of 0.99 to 1.17; is that right? 10 A. Yes, that's correct. 11 Q. And you reference that on page 32 of your 12 amended report where you state O'Brien reports a 13 hazard ratio of 1.08, and then you provide the 14 confidence intervals, who have "ever" versus "never 15 used" a powder? 16 A. Yes. 17 Q. And you're critical of how O'Brien looked at 18 exposure. You state on page 32 of your amended 19 report: 20 (Reading) The primary limitation of 21 O'Brien, et al., is the focus on 22 any talcum powder use, a 23 nonspecific exposure that combines 24 women across a very broad range of 25 exposures (end of reading).</p>	<p style="text-align: right;">Page 193</p> <p>1 page 434 of Exhibit 4. 2 Q. But you recall that, right, 3 Dr. Smith-Bindman? 4 A. Yes. I didn't say I agreed with that 5 person's review. But, yes, we discussed that 6 earlier. 7 Q. At least the JAMA reviewer disagrees with 8 your statement with respect to the primary limitation 9 of O'Brien, as set forth on page 32 of your amended 10 report; correct? 11 MS. O'DELL: Object to the form. 12 THE WITNESS: So you're -- you're pulling 13 one data out of O'Brien. I have not said that I 14 didn't think there was valuable information in 15 O'Brien. 16 So the negative -- the remainder of that 17 paragraph discusses them showing in that same table 18 that the relative risk of women with patent 19 reproductive tracts of 1.13, and that the risk of 20 women who use talcum powder greater than one time a 21 week, is 1.19. So I think O'Brien has important 22 information. 23 I think, I believe that you want to get at, 24 a measure that's more descriptive of a specific type 25 of use, which I think is daily use. So I think it</p>

<p style="text-align: right;">Page 194</p> <p>1 has the opportunity to go a lot further than they</p> <p>2 did. But I'm not dismissing their -- her work.</p> <p>3 BY MR. ZELLERS:</p> <p>4 Q. Well, what you have done for -- with O'Brien</p> <p>5 is to go and pick out particular subtypes, and at</p> <p>6 least for purposes of your unpublished study have</p> <p>7 decided to use a portion of the data from O'Brien</p> <p>8 rather than the overall set of data?</p> <p>9 A. Yes.</p> <p>10 Q. Are you aware O'Brien's overall finding was</p> <p>11 not based on medically confirmed cases of ovarian</p> <p>12 cancer, where the outcome was limited to -- well, let</p> <p>13 me ask that question first.</p> <p>14 Are you aware in O'Brien that the overall</p> <p>15 finding was not based on medically confirmed cases of</p> <p>16 ovarian cancer?</p> <p>17 A. I'd have to read about the contributory</p> <p>18 study, but I believe they had subcancers that were</p> <p>19 self-reported as opposed to based on medical review</p> <p>20 of their charts. But I don't know which of the</p> <p>21 cohorts had it written down, but I wouldn't remember</p> <p>22 without looking up which one did what.</p> <p>23 Q. O'Brien concluded that when the outcome was</p> <p>24 limited to medically confirmed cases, the hazard</p> <p>25 ratio was weaker. And I'm looking on page 56, the</p>	<p style="text-align: right;">Page 196</p> <p>1 A. I just want to -- yes, I -- so I -- most of</p> <p>2 the cases were medically confirmed. I was just -- I</p> <p>3 don't think I knew that, 2200, 1800 and 84. Most are</p> <p>4 medically confirmed.</p> <p>5 Q. Well, wouldn't the medically confirmed cases</p> <p>6 be more reliable than the analysis that is not</p> <p>7 limited to medically confirmed cases?</p> <p>8 A. I think, in general, using medically</p> <p>9 confirmed cases would be preferable. I don't know</p> <p>10 how it would influence their sample size or their</p> <p>11 missing data.</p> <p>12 And so I think I would be very interested to</p> <p>13 see O'Brien's results, which might be in the</p> <p>14 supplement, that looks at regular use with women who</p> <p>15 had patent reproductive tracts who are medically</p> <p>16 confirmed cases. I think that would be very</p> <p>17 interesting to look at.</p> <p>18 I think that paragraph that you're reading</p> <p>19 from only talks about one analysis that is "ever use"</p> <p>20 rather than all the analysis that they did.</p> <p>21 Q. Well, the authors in O'Brien conclude -- and</p> <p>22 I'm looking at discussion on page 56 --</p> <p>23 A. Yes.</p> <p>24 Q. -- (Reading) In this pooled analysis</p> <p>25 of four large US cohorts, there was</p>
<p style="text-align: right;">Page 195</p> <p>1 first new paragraph.</p> <p>2 A. In this pooled -- oh.</p> <p>3 Q. "When the outcome was limited to medically</p> <p>4 confirmed cases," do you see that?</p> <p>5 A. Yes, I do see that.</p> <p>6 Q. And you have not done that analysis, to look</p> <p>7 specifically at the medically confirmed cases; is</p> <p>8 that right?</p> <p>9 A. I have not.</p> <p>10 Q. In forming your opinions regarding O'Brien,</p> <p>11 why did you not use the medically confirmed cases?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 THE WITNESS: I actually don't know if that</p> <p>14 variable is available for women who participated in</p> <p>15 the Nurses' Health Study. So we used Nurses' Health</p> <p>16 Study. I don't remember if there was a variable that</p> <p>17 distinguished some women who had confirmed cases and</p> <p>18 some who didn't.</p> <p>19 BY MR. ZELLERS:</p> <p>20 Q. What O'Brien states is that when the outcome</p> <p>21 was limited to medically confirmed cases, the hazard</p> <p>22 ratio was attenuated, or weaker, with a hazard ratio</p> <p>23 of 1.05, 95 percent confidence interval of 0.96 to</p> <p>24 1.16 for the ever use versus never use; is that</p> <p>25 right?</p>	<p style="text-align: right;">Page 197</p> <p>1 no statistically significant</p> <p>2 association between self-reported</p> <p>3 use of powder in the genital area</p> <p>4 and risk of ovarian cancer. There</p> <p>5 were no clear dose-response trends</p> <p>6 for duration and frequency of</p> <p>7 powder use in the genital area in</p> <p>8 relation to ovarian cancer risk</p> <p>9 (end of reading).</p> <p>10 Do you agree with that?</p> <p>11 A. So two things. I don't agree with that, but</p> <p>12 she did conclude that it wasn't statistically</p> <p>13 significant.</p> <p>14 Q. And let me --</p> <p>15 A. In that paper --</p> <p>16 Q. And I want you to finish, but you agree that</p> <p>17 I read it correctly, that's what the author</p> <p>18 concluded, but you disagree with her conclusion?</p> <p>19 A. Yes.</p> <p>20 Q. All right. Please go ahead and explain.</p> <p>21 A. Thank you.</p> <p>22 I just wanted to -- I had said when you -- I</p> <p>23 did not particularly focus on medically confirmed</p> <p>24 cases when I read the paper. Thank you for pointing</p> <p>25 that out.</p>

<p style="text-align: right;">Page 198</p> <p>1 But I said what I would like to see is how 2 do the results look for medically confirmed cases 3 overall. And for frequent use for all medically 4 confirmed cases, the point estimate is 1.17; 1.0 to 5 1.38. So almost identical. The point estimates for 6 invasive is 1.21.</p> <p>7 So I think that was a good point that you 8 made. But, indeed, the results are statistically 9 significant for all medically confirmed cases.</p> <p>10 Getting to the question you asked. I think 11 given many of the O'Brien statistically significant 12 associations with women who regularly use talc, I 13 don't agree, and I was surprised that she concluded 14 it wasn't statistically significant.</p> <p>15 It was the same point that several of the 16 letters to the editor about her report made. And 17 even something she said in her follow-up publication, 18 which said, oh, there is a statistically significant 19 association, it's just not that large. So I think 20 she even sort of softened their conclusion that there 21 was no statistical significance.</p> <p>22 Q. Do you know Dana Gossett?</p> <p>23 A. I have heard of her, but I don't know her.</p> <p>24 Q. Was she at one time on the UCSF faculty, if 25 you know?</p>	<p style="text-align: right;">Page 200</p> <p>1 about the clinical implication of the results rather 2 than about the science. It's not always the case, 3 but it's more to answer the question, "So what does 4 this mean for us?"</p> <p>5 Q. My only question was, based upon your 6 experience, does JAMA have, you know, a rigorous 7 process in terms of who they accept editorials from, 8 letters from, things that they put in the 9 publication?</p> <p>10 A. So I was making a distinction. I just 11 wasn't making it clearly enough.</p> <p>12 There are scientific standards for the 13 papers that get published at JAMA. Those go through 14 pretty rigorous peer review. And kind of in some way 15 everyone can write those papers, but they have to go 16 through the hurdles of being critically reviewed by 17 the reviewers and by the editor and by the 18 biostatistical editor. So you have to go through 19 those. And that's the rigorous review process.</p> <p>20 The editorials are a completely different 21 process. And those are to understand the clinical 22 implications but not to rigorously assess the 23 methods. So they are -- they don't go through peer 24 review. They have a very different focus. They are 25 meant to let the clinicians reading the papers know</p>
<p style="text-align: right;">Page 199</p> <p>1 A. At the San Francisco General Hospital 2 faculty, I think.</p> <p>3 Q. Do you know anything about her reputation or 4 her credentials?</p> <p>5 A. She's not a researcher, as far as I know. 6 She's a clinician.</p> <p>7 Q. She did a response to the O'Brien paper that 8 was published in JAMA at the same time, or shortly 9 after?</p> <p>10 A. I think it was a letter -- it was an 11 editorial that went along with it, not a response to 12 it.</p> <p>13 Q. Is this similar to the type of letter that 14 you were going to submit?</p> <p>15 A. No. She was presumably, or her coauthor, 16 was invited to write an editorial at the same time. 17 It's a different category.</p> <p>18 Q. Does JAMA have high standards in terms of 19 who they will accept letters from, based on your 20 experience?</p> <p>21 A. So I both had letters -- editorials written 22 about my papers several times, and I have written 23 those many times. I think I have one coming out this 24 week.</p> <p>25 They are often people who are commenting</p>	<p style="text-align: right;">Page 201</p> <p>1 how, what should we do with this information. I'm 2 not saying they are not rigorous. It's just they are 3 not rigorously scientifically evaluated. They are 4 usually evaluated by clinicians who said, hey, should 5 we care about this or not.</p> <p>6 Q. Last question: Is it your understanding, 7 though, you need to be a reputable physician in order 8 to submit and have published an editorial to JAMA?</p> <p>9 A. Yes.</p> <p>10 MR. ZELLERS: I have reached the end of my 11 time, sadly. Ms. O'Dell, I do have more questions. 12 I'd like to continue, and I would like to try to 13 finish with some additional time. We talked about 14 that off the record, and I -- you can certainly speak 15 for yourself, but I think your position is the 16 deposition is concluded at four hours.</p> <p>17 MS. O'DELL: That is the understanding of 18 the Court's order, that it's four hours. And so we 19 do not agree to go beyond four, and we're going to 20 abide by the Court's order.</p> <p>21 I do have a limited number of questions on 22 redirect, and so --</p> <p>23 MR. ZELLERS: So that's fine. Let 24 me finish.</p> <p>25 Q. Doctor, you've given us today, through</p>

<p style="text-align: right;">Page 202</p> <p>1 answers to my questions and through your amended 2 report, the opinions, at least as of today, that you 3 would expect to give in any trial or hearing in this 4 matter; is that right? 5 A. Yes. 6 MS. O'DELL: Let's go off the record. 7 THE REPORTER: Off the record at 2:40 p.m. 8 (Off the record.) 9 MR. ZELLERS: We will mark as Deposition 10 Exhibit 23 the O'Brien 2020 paper. 11 (Exhibit No. 23 was marked.) 12 MR. ZELLERS: Off the record. 13 (Recess taken.) 14 THE REPORTER: Back on the record at 15 2:55 p.m. 16 EXAMINATION 17 BY MS. O'DELL: 18 Q. So, Dr. Smith, I have a few questions to 19 follow up on and ask you. 20 You were asked about a number of documents 21 from your production prior to your deposition. I 22 want to direct you to a specific page in Exhibit 5, 23 and it's Bates number ending -1131. - 1131 at the 24 top of the page. 25 A. Yes.</p>	<p style="text-align: right;">Page 204</p> <p>1 who contributed to the numbers in Table 1, basically 2 to tell people how you get the results. 3 So we decided to follow the recommendation 4 of the reviewer and show more limited numbers in 5 Table 1, but the question was whether or not we 6 should re-extract the numbers from the papers or just 7 use the data that we have. And if we re-extract the 8 numbers, if we both had to do the re-extraction 9 separately, or to get the "N." 10 Again, it had nothing to do with the 11 quantification of the risk, that was from the point 12 estimate in the paper, but, rather, how to present it 13 in Table 1, whether Sean should just do that. 14 And I think my recollection of that email is 15 who should be putting the numbers in the paper, and I 16 believe that Sean extracted those numbers by himself. 17 Q. In your answer you used the term, the "N." 18 A. The 'N' just means the number of -- the 19 sample size. "N" is the sample size. 20 Q. So I want to now direct you to Exhibit 4, 21 page Bates number ending -184. 22 A. -184? 23 Q. -184. -184. 24 A. Sorry. 25 Q. -184.</p>
<p style="text-align: right;">Page 203</p> <p>1 Q. You were asked about an email from you to 2 Dr. Woolen dated June 10th, 2021. 3 A. Yes. 4 Q. And specifically you were pointed to 5 comments about relooking at numbers, and "it seems 6 like too much work" or "seems too much work." 7 A. Yes. 8 Q. What did you mean by that? 9 A. So one of the reviewers for the paper 10 suggested that not how we analyze the data or which 11 patients to include, but in Table 1 how we described 12 the patients in terms of the whole cohort, meaning 13 everyone who had no exposure, low, medium, high 14 exposure, or whether we just described the cohort as 15 no exposure versus high exposure. Because we were 16 describing high exposure, frequent exposures. 17 So whether or not in Table 1 we put the 18 whole cohort, meaning all the patients with cancer, 19 all the patients without cancer, or whether we limit 20 Table 1 to the patients that contributed to the 21 quantification of the risk, which is really high 22 exposure versus no exposure. 23 We had in our first draft put all the 24 patients in. And one of the reviewers suggested that 25 maybe it's more appropriate to put only the patients</p>	<p style="text-align: right;">Page 205</p> <p>1 A. Yes, -184. 2 Q. Okay. And I want to direct your attention 3 to the bottom of the page, to an email that defense 4 counsel asked you about, dated August 17th, 2021. 5 A. Yes. 6 Q. It's an email from you to Dr. Woolen and 7 Dr. Lazar. 8 A. Yes. 9 Q. And specifically you were asked about your 10 comments in regard to dose-response. And I think you 11 used the words, "a terrible measure," then "get 12 negative results," and "conclude we didn't have a 13 good measure, so that's why it's negative, paren, if 14 a terrible measure, we should not have looked." 15 What did you mean by those comments? 16 A. I wish I wasn't quite so casual. 17 But Sean, in response to one of the 18 reviewers, was considering doing a dose-response. 19 And the dose-response would mean looking at a little 20 bit of exposure, a medium amount, a lot, and a very 21 lot, to see if there was a change in risk with the 22 change of exposure, a dose-response. 23 Our paper is entirely focused on one risk 24 group, women who use talcum powder daily. And so we 25 don't have the gradient in risk to look at, with</p>

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1 respect to a gradient of exposure. We only looked at
 2 a single exposure daily use. So I didn't think we
 3 had any measure of gradient of exposure. So that's
 4 what I meant by a "terrible measure."
 5 If we don't have a meaningful measure of
 6 exposure and we try to see if it's associated with an
 7 outcome, we wouldn't be able to see an association
 8 because our measure is not a real measure. So I
 9 would say we shouldn't move forward, meaning we
 10 didn't have a good measure of gradient of exposure,
 11 and then probably not find an association because we
 12 don't have a good measure and then conclude, oh, we
 13 didn't find, if we looked. Part of truth in research
 14 is if you look at something, you have to publish it.
 15 So we wouldn't want to do the analysis not
 16 expecting to have good results if we don't have a
 17 good measure, then find no results. And then we
 18 would have to explain, well, we didn't see a result
 19 because we didn't have a good measure.
 20 And so I was suggesting, listen, if we don't
 21 have a good measure, let's not go forward with an
 22 analysis because it's not going to be fruitful.
 23 Q. Why did you not have a good measure?
 24 A. Because we have already only included women
 25 who use talcum powder exposure. So if you look at

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1 the table in that unpublished results, women report
 2 four times a week to seven times a week, or 10,000
 3 uses over a lifetime, which is the same thing as
 4 daily use for 30 years. Those are measuring the same
 5 thing. So we didn't have any differential
 6 measurement of exposure. Everyone was the most
 7 frequent daily users.
 8 Q. So, in other words, would it be fair to say
 9 that in a dose-response, you would have to have low
 10 use, or lower use, and then some incremental use --
 11 A. Yes.
 12 Q. -- up to sort of a maximum or daily use?
 13 A. That's right. And we just didn't have that.
 14 We didn't -- that wasn't what we chose to include in
 15 our paper. We included only one use case, and that
 16 was as close to daily use as possible.
 17 Q. Let me ask you now to turn your attention to
 18 Exhibit 4, page 436.
 19 A. Yes.
 20 Q. And these are reviewer comments that were
 21 received from "JAMA Internal Medicine."
 22 A. Okay.
 23 Q. First, I want to just make the record clear.
 24 JAMA itself, the JAMA publication, did not issue
 25 comments on your submitted manuscript; is that fair?

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1 MR. ZELLERS: Objection. Form.
 2 THE WITNESS: These comments are from
 3 reviewers.
 4 MS. O'DELL: Yes.
 5 THE WITNESS: So when you send in a
 6 publication to a journal, they then find reviewers
 7 who are willing to review that.
 8 MS. O'DELL: Right.
 9 THE WITNESS: And so these don't reflect an
 10 official opinion of "JAMA Internal Medicine." They
 11 are reviewers who they recruited to review the
 12 manuscript.
 13 BY MS. O'DELL:
 14 Q. Okay. Let's take a look at comments made by
 15 Reviewer No. 3 first. And I guess we will go to the
 16 top of the page.
 17 You were asked specifically about the
 18 comments in the top paragraph on page 436 that
 19 related to asbestos exposure to asbestos, cites the
 20 Cambargo paper, and then discusses high sustained
 21 occupational exposure to asbestos.
 22 Were those -- did you find those comments to
 23 be relevant to your publication?
 24 A. No. They had nothing to do with our
 25 publication. We don't discuss occupational exposure

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1 to talc or asbestos. We don't make a comparison to
 2 asbestos from those other exposures. We don't cite
 3 Camargo. So it was a funny comment that appeared in
 4 this person's review.
 5 Q. Looking at Reviewer No. 4, and specifically
 6 the major comment No. 1, there is a discussion
 7 regarding regular talcum powder use/ever use. And
 8 the reviewer was critical of -- of the decision to
 9 focus on daily use.
 10 First, is -- is ever use essentially the
 11 same as daily use? Give us your reaction to that --
 12 that comment?
 13 MR. ZELLERS: Objection. Form.
 14 Go ahead.
 15 THE WITNESS: So to begin with, women use
 16 talcum powder in different -- different frequencies.
 17 I said that earlier. Some use it just a couple of
 18 days a month. Some women just use it in the
 19 summertime. Some women use it daily, and probably
 20 everything in between. I agree with what this
 21 reviewer is getting at, which is that there probably
 22 aren't a lot of women who use talcum powder once in
 23 their lives.
 24 So I think what this reviewer is saying --
 25 is saying that everyone who uses talcum powder, they

<p style="text-align: right;">Page 210</p> <p>1 use talcum powder regularly. But I would strongly 2 disagree that regular use -- and he gives a 3 particular example, use of talc powder at least once 4 a month for six months or longer. I would strongly 5 disagree that once a month for six months or longer, 6 which is six times, is the same thing as daily use, 7 which is in that six months would be 165 times. And 8 I don't think 6 and 165 are the same.</p> <p>9 So I think he makes a good point that once 10 in a lifetime is probably not what most women use. 11 But I think the exposure that you care about is one 12 that you want to plot.</p> <p>13 Part of the difficulties in these studies is 14 there's no real way to quantify the amount women are 15 exposed to in different settings. I think a daily 16 use group seems like a very clean group. It's the 17 women who remember that they used talcum powder as 18 part of their daily ritual. I think it describes a 19 group that we can understand across different 20 studies, and it's a relatively high exposure compared 21 to people who use it once every six months.</p> <p>22 So I stand by looking at daily use as a 23 really important category that is really very 24 different than ever use. Ever use probably doesn't 25 have a lot of people -- women who use it once, but it</p>	<p style="text-align: right;">Page 212</p> <p>1 is to decide what gets published in the particular 2 journal that the manuscript is submitted for. But 3 really, more importantly, it's a way to get more 4 knowledgeable eyes on a piece of scientific work, and 5 it gets improved along the way, and that's expected.</p> <p>6 So when I do reviews, they take me a long 7 time, and I contribute a lot of free advice to the 8 writers. This is what you've done, that's great.</p> <p>9 This is what I don't -- I don't see what I want to 10 see. And this is how you could make it better.</p> <p>11 That's what I do as a writer. And as an author, 12 that's what I look for in a review, whether or not 13 they accept it or not.</p> <p>14 I have had papers at "Annals of Internal 15 Medicine" where, from the time I submitted it to the 16 time it was accepted for publication, was two years. 17 And it just went to a lot of reviewers who kept 18 basically improving the paper. And I was very 19 frustrated by how long it took. But just from the 20 time they were sitting on it till they accepted it, 21 was two years. But I had lots of comments, and the 22 paper just kept getting stronger as a result.</p> <p>23 Q. And for purposes of the unpublished work 24 that you're seeking to have published now, do you 25 embrace the peer review process?</p>
<p style="text-align: right;">Page 211</p> <p>1 might have women who use it once a month, once every 2 few months, a few times a year. That to me is 3 diluting what would I expect the association to be 4 for women who use it daily.</p> <p>5 BY MS. O'DELL:</p> <p>6 Q. You just testified that this reviewer made 7 some good points. Do you -- did you agree with all 8 the points that were made?</p> <p>9 A. My recollection is that when we got this 10 first review, this was a first review we got, that 11 there were a lot of good points. And so we then set 12 about improving the paper to respond to each of those 13 points, which is why it took us time between this 14 paper to sort of our next submission, because we 15 basically did a lot of revision based on comments.</p> <p>16 We had two reviews that were detailed 17 reviews, and we improved the paper substantially. I 18 didn't take all of the comments, to get at your 19 point, but I took the ones that I agreed with. I 20 considered all the comments. And I think the paper 21 has improved considerably.</p> <p>22 Q. And is that, you know, what you all have 23 done in this process, is that the -- the point and 24 the purpose of reviewer's peer review?</p> <p>25 A. I think peer review has one purpose, which</p>	<p style="text-align: right;">Page 213</p> <p>1 A. I do. What I hope is it doesn't take two 2 years. But, yes, I do. I think the paper has been 3 substantially improved through the process.</p> <p>4 Q. Let me ask you to clarify something that was 5 discussed at length several times today, and that is 6 referrals of your manuscript to a particular 7 publication versus an actual submission to a 8 publication.</p> <p>9 Please explain what the differences are and 10 what occurred in this situation.</p> <p>11 A. So the primary submission is you write a 12 cover letter to the journal, you explain why the 13 topic is important, maybe something about what you 14 did, or strengths of what you did, or sometimes 15 limitations of what you did, or why it's important. 16 And we did that -- we did that for several journals 17 that we discussed today.</p> <p>18 Having the paper referred by a journal is a 19 different process. And that -- I don't know the -- I 20 don't know the details of it, but different journals 21 have different relationships with each other. So for 22 the JAMA network, they are all under one publisher, 23 and so the -- true, the most prestigious JAMA is the 24 primary JAMA, in this case I asked the editor to 25 submit. And he said, it just doesn't meet the</p>

<p style="text-align: right;">Page 214</p> <p>1 requirements of that type of journal. So he 2 suggested submitting it to "JAMA Internal Medicine." 3 And we did submit it to "JAMA Internal Medicine" with 4 a letter. 5 When they rejected it and they offered to 6 forward it to another journal, we didn't have a cover 7 letter. We didn't have the opportunity to fix the 8 issues that were raised by the -- by the peer review. 9 And so if it was a critical review, as ours was, 10 there was no chance anyone else was going to accept 11 it. They wouldn't accept it until they had a chance 12 to look at a version that might have fixed any errors 13 or areas of weakness. 14 And so I think we did submit -- our paper 15 was considered by a large number of journals, but 16 most of those were referrals. And I mean -- I can't 17 say they accepted them. They didn't accept them, but 18 I wouldn't have expected it. 19 So in the example with the journal, "General 20 Journal of Medicine," I don't know the relationship 21 between Annals and "JAMA General Internal Medicine." 22 I was, quite frankly, a little surprised by that 23 referral. But they were not going to accept it with 24 the reviews that Annals have already turned it down. 25 I mean, there are cases where they do.</p>	<p style="text-align: right;">Page 216</p> <p>1 not? 2 A. Let's go through the words again. 3 Q. Yes. 4 A. Fibrous talc -- 5 MR. ZELLERS: Let me just interpose an 6 objection to form. 7 Go ahead, Doctor. 8 THE WITNESS: Fibrous talc, talc fibers, and 9 asbestiform fibers, all of those describe the shape 10 of talc fibers as being -- I don't remember the 11 number, but maybe it's 5 microns by 1 micron. It's 12 the shape of the talc. 13 Those three descriptions are all 14 descriptions of the way talc looks when it takes on 15 an asbestiform shape. It's a long, thin shape. And 16 apparently that shape has a capacity to cause damage. 17 So talc in that shape is considered the same as 18 asbestos in terms of a Group 1 carcinogen by IARC. 19 BY MS. O'DELL: 20 Q. You were asked some questions about the 21 specific subtypes of ovarian cancer, and specifically 22 whether you have looked at the epidemiology of all 23 subtypes of ovarian cancer. 24 And let me ask you the question: Have you 25 looked at the literature describing the association</p>
<p style="text-align: right;">Page 215</p> <p>1 Those cases are usually -- the topics were not just 2 interesting. The methods were great, but the topic 3 wasn't that great, so maybe our sister journal might 4 need that topic focused on. 5 So in our case they were critical of the 6 methods. And so if it was rejected, it was not going 7 to be accepted by those other referrals until those 8 errors were fixed. 9 So, yes, it was referred from "Annals of 10 Internal Medicine" to "General Internal Medicine," 11 and they rejected it. But we then took those 12 reviews, we modified, we fixed the numbers, as you've 13 asked me about, and that's why we felt it was 14 reasonable to actually submit it to them with a cover 15 letter and explanation of what we were doing. 16 Q. You were also asked some questions about 17 your amended report, and specifically the section 18 regarding, "Constituents: Asbestos Fibrous Talc." 19 And I want to just -- I think there was some 20 confusion in that discussion, and I want to clarify 21 the record. 22 Is it your opinion that talc fibers -- let 23 me strike that and start again. 24 Talc fibers and asbestiform talc and fibrous 25 talc, in your understanding, is that equivalent or</p>	<p style="text-align: right;">Page 217</p> <p>1 between general use of talc and ovarian cancer, and 2 did that include analyses of certain subtypes? 3 A. Yes. So I reviewed the epidemiology of 4 ovarian cancer in its entirety, and whatever papers 5 have been published about whatever subtypes 6 contribute to that. 7 What I was trying to explain is that there's 8 just a lot more literature about the serous cancer 9 than there is about other subtypes. But my opinion 10 expressed in the first report and the amended report 11 is that all of ovarian cancer taken as a group has an 12 association and is caused by exposure to talcum 13 powder. 14 Q. And when you're saying "ovarian cancer" 15 there, you're referring to epithelial ovarian cancer? 16 A. Yes, that's correct. There are types that 17 would not count. Like metastatic cancer of the 18 stomach to the ovary is not what I'm talking about. 19 Q. You were asked a number of questions about 20 Health Canada. And let me just direct you to page 17 21 of Health Canada, which was marked as Exhibit 22 by 22 defense counsel. And looking at -- let me just ask 23 some general questions. 24 Do you have it in front of you, by chance? 25 A. I'm up to 21. 22.</p>

<p style="text-align: right;">Page 218</p> <p>1 Q. Page 17. And first let me ask you 2 generally, does the Health Canada assessment exclude 3 any subtypes from its causation conclusions? 4 Let me strike that and say: Does Health 5 Canada exclude any subtypes of epithelial ovarian 6 cancer in their conclusion that perineal use of talc 7 has caused it? 8 A. No. 9 MR. ZELLERS: Objection. Form. 10 BY MS. O'DELL: 11 Q. Specifically, does Health Canada exclude in 12 its conclusion that the genital use of talc is -- can 13 cause ovarian cancer? Does it exclude endometrio -- 14 endometrioid ovarian cancer? 15 A. No. 16 MR. ZELLERS: Objection. Form. 17 THE WITNESS: It does not. 18 BY MS. O'DELL: 19 Q. Similarly, does Health Canada in its 20 conclusions exclude clear cell ovarian cancer in part 21 of its conclusions? 22 MR. ZELLERS: Objection. Form. 23 THE WITNESS: It does not. 24 BY MS. O'DELL: 25 Q. You were also asked about the dose-response</p>	<p style="text-align: right;">Page 220</p> <p>1 entire dose range to particularly get at whether we 2 have a quantified dose-response. 3 But I think they also acknowledge that we 4 don't necessarily need a dose-response to determine 5 whether talc is causal. It's one of the areas they 6 cite in my review, because that's not -- that's not a 7 substantial requirement for causality to work in a 8 linearly predictable way. 9 Q. I want to ask you to -- 10 A. Can I just -- 11 Q. Yes. 12 A. It's an example of an absence of evidence 13 rather than an evidence of absence. So there isn't 14 enough information, not that they have information 15 that there's not a dose-response. 16 Q. In other words, they had limited data? 17 A. That's what that means. 18 Q. Let me ask you to turn to the O'Brien study. 19 I think it's been marked now as Exhibit? 20 MR. ZELLERS: 23. 21 THE WITNESS: I have got it now. Someone 22 snuck it into my pile. 23 MS. O'DELL: Is that O'Brien there? 24 THE WITNESS: Yes. 25 ///</p>
<p style="text-align: right;">Page 219</p> <p>1 discussion in Health Canada, on page 33. 2 A. Yes. 3 Q. And you were directed, I believe, to the -- 4 to the summary sentence but didn't have the chance to 5 discuss sort of the what had been cited by Health 6 Canada and really what their analysis was. 7 You know, what -- when Health Canada reached 8 its conclusion that -- that exposure information 9 is -- was lacking to permit a fulsome assessment, 10 what were they talking about? And what's your 11 opinion regarding dose-response? 12 A. I think they cite a large number of 13 publications that have found dose-response. They 14 also cite that some of the studies just don't have 15 enough data, kind of the way we didn't in our review, 16 across a whole range of dose levels to be able to 17 conclude there's a dose-response. 18 As ours only looks at heavy users, many of 19 the studies only looked at any users, meaning there 20 wasn't a gradient of exposure measured that would 21 allow looking at a gradient of risk. 22 Nonetheless, they describe a whole lot of 23 papers and systematic reviews and interpretations 24 that do support a dose-response. So I think they 25 just would like to see more information across the</p>	<p style="text-align: right;">Page 221</p> <p>1 BY MS. O'DELL: 2 Q. And I'd like, if you would, please -- would 3 it be okay if I borrowed that version -- 4 A. I have mine. 5 Q. -- and you can use yours because I don't 6 have a printed version. 7 A. The supplement or the main? 8 Q. The main. So Exhibit 23, which is the main 9 O'Brien -- 10 A. Yes. 11 Q. -- article. And if you will turn to 12 page 56. Defense counsel asked you about the first 13 two sentences in the "Discussion" section. 14 A. Yes. 15 Q. In the second sentence there, it says: 16 (Reading) There were no clear 17 dose-response trends for duration 18 and frequency of powder use in the 19 genital area in relation to ovarian 20 cancer risk (end of reading). 21 And I don't think you had an opportunity to 22 respond to that specific sentence when counsel asked 23 you questions. 24 Why -- is it surprising that you do not see 25 a dose-response in a cohort; and if so, why?</p>

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<p>1 MR. ZELLERS: Objection. Form.</p> <p>2 THE WITNESS: So of the -- of the cohorts,</p> <p>3 they didn't have detailed information about use</p> <p>4 except for one of the four studies. So the Nurses'</p> <p>5 Health Study asked women how much and how often they</p> <p>6 used talc, daily, one to six times a week, and so</p> <p>7 forth. The other studies -- the Nurses' Health Study</p> <p>8 too, which only asked the question a few years before</p> <p>9 publication, so it didn't contribute anything.</p> <p>10 The other two studies didn't have a lot of</p> <p>11 information. So the Women's Health Study only had</p> <p>12 information about did you ever use talc. And so the</p> <p>13 SIS study, they asked the question a little bit oddly</p> <p>14 about the year before that, the survey, or when they</p> <p>15 were 13, so they had no information except for one</p> <p>16 study on quantification of the amount of use.</p> <p>17 Nonetheless, when they looked at the data</p> <p>18 they did have on the quantification of use, they</p> <p>19 showed a very strong relationship in a dose-response</p> <p>20 where women who were frequent users had a risk --</p> <p>21 women who had open tubes had a risk of 1.21. That</p> <p>22 was statistically significant. So a 21 percent</p> <p>23 increased risk of cancer.</p> <p>24 So I was surprised that that's how they</p> <p>25 concluded. They had, in my words in my email, they</p>	<p>1 review in her amended report, and I'm just following</p> <p>2 up.</p> <p>3 Q. In relation to the new review, beginning on</p> <p>4 page 34 of your amended report, did I or any lawyer</p> <p>5 for a plaintiff have any input into the design of</p> <p>6 your work?</p> <p>7 A. You had no input on the design. You didn't</p> <p>8 see this review or the other review in any state.</p> <p>9 The only thing I was clarifying -- it starts</p> <p>10 on page 33. So I did understand that the changes in</p> <p>11 the word of -- I took out the "systematic review." I</p> <p>12 didn't take it out. It just changed the indexing.</p> <p>13 But the systematic review is described starting on</p> <p>14 page 33.</p> <p>15 No, there was no input from any lawyers for</p> <p>16 any of the work.</p> <p>17 Q. Did you use the same methodology in carrying</p> <p>18 out your review for your MDL report that you would</p> <p>19 use in the study you're publishing?</p> <p>20 A. Yes. I think the review I did was on my</p> <p>21 own. And there were some details that you have to</p> <p>22 include with publishing a result, such as registering</p> <p>23 the trial. But in terms of the scientific rigor, I</p> <p>24 followed what I consider very rigorous scientific</p> <p>25 methods for conducting that review.</p>
Page 223	Page 225
<p>1 had a terrible measure. It was only there for one of</p> <p>2 the four studies. But even so, they showed a</p> <p>3 statistically significant result. So I was surprised</p> <p>4 they concluded that there was none. They had a</p> <p>5 terrible measure, and they still showed a</p> <p>6 dose-response.</p> <p>7 BY MS. O'DELL:</p> <p>8 Q. Let me ask you to set that aside and turn to</p> <p>9 page 34 of your amended report, which is the section</p> <p>10 beginning with your systematic review within the MDL</p> <p>11 report.</p> <p>12 A. Yes.</p> <p>13 Q. And specifically in relation to the</p> <p>14 systematic review, let me ask you first, did I, or</p> <p>15 any lawyer on behalf of plaintiffs, have any input in</p> <p>16 the design or the execution of that analysis?</p> <p>17 MR. ZELLERS: And I'm sorry, just for</p> <p>18 clarification. Are we talking about the systematic</p> <p>19 review in her original report or the unpublished</p> <p>20 study?</p> <p>21 MS. O'DELL: This is page -- this is in the</p> <p>22 new report I'm looking at, Exhibit 9. And it's --</p> <p>23 you asked her some questions about this review -- let</p> <p>24 me strike that and start again.</p> <p>25 You asked questions about her systematic</p>	<p>1 MS. O'DELL: Let me just check my notes.</p> <p>2 Q. Early on in the discussion of the emails and</p> <p>3 other documents produced in relation to this</p> <p>4 deposition, there was a description by Dr. Woolen,</p> <p>5 and it referred to the different individuals that</p> <p>6 would be involved in your unpublished work. And in</p> <p>7 one instance it referred to a content expert, and you</p> <p>8 were talking about that might have been a</p> <p>9 gynecologist. Do you remember that testimony?</p> <p>10 A. Yes.</p> <p>11 Q. Are you a content expert when it comes to</p> <p>12 diagnosing ovarian cancer?</p> <p>13 A. Yes.</p> <p>14 Q. Are you a content expert when it comes to</p> <p>15 the epidemiologic literature looking at the</p> <p>16 association between talc use and ovarian cancer?</p> <p>17 A. Yes.</p> <p>18 Q. Just so the record is clear, in relation to</p> <p>19 your unpublished study, have I or lawyers for any</p> <p>20 plaintiffs had -- have we had input in any way into</p> <p>21 the design, execution, you know, publishing of that</p> <p>22 manuscript?</p> <p>23 A. No, you haven't.</p> <p>24 MS. O'DELL: I think that's all I have.</p> <p>25 MR. ZELLERS: Doctor, I have just a few</p>

<p style="text-align: right;">Page 226</p> <p>1 follow-ups.</p> <p>2 FURTHER EXAMINATION</p> <p>3 BY MR. ZELLERS:</p> <p>4 Q. The unpublished study, you believe, is</p> <p>5 supportive of your opinions in this case; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. And you reference the unpublished study in</p> <p>9 your amended report, on page 17; is that correct?</p> <p>10 A. I don't reference the results, but I mention</p> <p>11 that we're doing this separate analysis.</p> <p>12 Q. And you state that you thought it was</p> <p>13 important to publish a meta-analysis and systematic</p> <p>14 review that focuses on frequent use of talcum powder?</p> <p>15 A. Yes.</p> <p>16 Q. I saw that you were questioned, you know,</p> <p>17 about your unpublished study in the Philadelphia</p> <p>18 trial.</p> <p>19 A. It was referenced.</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 THE WITNESS: I wasn't asked any questions</p> <p>22 about it. It was just referenced.</p> <p>23 BY MR. ZELLERS:</p> <p>24 Q. Well, so my question is: Do you intend to</p> <p>25 offer opinions or talk about your unpublished study,</p>	<p style="text-align: right;">Page 228</p> <p>1 about dose-response, and whether it was part of her</p> <p>2 study and whether it was a bad measure.</p> <p>3 MS. O'DELL: Well, I asked -- I followed up</p> <p>4 on the email that you asked about. So you had time</p> <p>5 to inquire about that, and you could have, but you</p> <p>6 didn't. So I will give you a couple minutes' leeway.</p> <p>7 But this is not a whole half hour.</p> <p>8 MR. ZELLERS: I disagree.</p> <p>9 MS. O'DELL: That's fine.</p> <p>10 MR. ZELLERS: But I appreciate your</p> <p>11 comments. Just one other -- couple of questions.</p> <p>12 Q. Health Canada decided that there was so</p> <p>13 little information about subgroups, that they</p> <p>14 couldn't consider and study it; correct?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 THE WITNESS: Are you asking about</p> <p>17 histology --</p> <p>18 BY MR. ZELLERS:</p> <p>19 Q. Well, take a look --</p> <p>20 A. -- or dose-response?</p> <p>21 Q. Take a look -- Ms. O'Dell directed you to</p> <p>22 page 17 in her questions.</p> <p>23 A. Yes. I'm on page 17.</p> <p>24 Q. And if you look at the bottom and the</p> <p>25 carryover sentence:</p>
<p style="text-align: right;">Page 227</p> <p>1 you know, at any trial or hearing? I mean, what you</p> <p>2 did, what your findings were?</p> <p>3 MS. O'DELL: Object to the form.</p> <p>4 THE WITNESS: If I'm asked about it, I would</p> <p>5 be happy to talk about it.</p> <p>6 BY MR. ZELLERS:</p> <p>7 Q. Same question: If the study is published, I</p> <p>8 assume you'll talk about it; is that right?</p> <p>9 A. If I'm asked about it, I'm happy to talk</p> <p>10 about it.</p> <p>11 Q. All right. Just a couple of other</p> <p>12 questions.</p> <p>13 You decided, with respect to your</p> <p>14 unpublished study, not to do any analysis of</p> <p>15 dose-response; is that right?</p> <p>16 A. Yes.</p> <p>17 MS. O'DELL: So, Mike, your time is up. I'm</p> <p>18 happy to let you go back to clarify, but your time is</p> <p>19 up. You could have saved time for redirect. So if</p> <p>20 you're going to go into different questions --</p> <p>21 MR. ZELLERS: That's not a different</p> <p>22 question.</p> <p>23 MS. O'DELL: It is a different area of</p> <p>24 inquiry for --</p> <p>25 MR. ZELLERS: You asked her specifically</p>	<p style="text-align: right;">Page 229</p> <p>1 (Reading) Furthermore there's</p> <p>2 considerable uncertainty for how</p> <p>3 subgroup data should be examined in</p> <p>4 particular for the tumor subtypes,</p> <p>5 therefore, subgroup analyses will</p> <p>6 not be examined -- will not be</p> <p>7 further examined in this assessment</p> <p>8 (end of reading).</p> <p>9 A. Yes. For histology they decided they</p> <p>10 couldn't do specific results. It was all ovarian</p> <p>11 cancer they were speaking about, not different</p> <p>12 results for different types.</p> <p>13 Q. Well, but "subgroup analysis" is referring</p> <p>14 to clear cell, mucinous, endometrioid; correct?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 THE WITNESS: I believe so, yes.</p> <p>17 MR. ZELLERS: I have more questions. I</p> <p>18 appreciate that our time is up, and so, you know, we</p> <p>19 can talk at some later point about whether or not any</p> <p>20 additional time is required or can be granted. But</p> <p>21 for today we're finished.</p> <p>22 MS. O'DELL: Okay. Thank you,</p> <p>23 Mr. Smith-Bindman.</p> <p>24 MR. ZELLERS: And before we go off the</p> <p>25 record, we have agreed that I will take custody of</p>

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1 the original hard copy deposition exhibits; that we
2 will transmit electronic copies of all of the
3 exhibits to the court reporter, with the exception of
4 Exhibit 15, which is the amended -- or the updated CV
5 for Dr. Smith-Bindman. And, Ms. O'Dell, you will
6 communicate that to the court reporter?

7 MS. O'DELL: I sure will.

8 MR. ZELLERS: All right. Thank you.

9 (Whereupon, the deposition was concluded at
10 3:34 p.m.)

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1 CERTIFICATE OF REPORTER
2 I, SANDRA BUNCH VANDER POL, a Certified
3 Shorthand Reporter, hereby certify that the witness
4 in the foregoing deposition was by me duly sworn to
5 tell the truth, the whole truth and nothing but the
6 truth in the within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time
9 and place therein stated, and that the testimony of
10 the said witness was thereafter reduced to
11 typewriting, by computer, under my direction and
12 supervision;

13 That before completion of the deposition,
14 review of the transcript was NOT requested. If
15 requested, any changes made by the deponent (and
16 provided to the reporter) during the period allowed
17 are appended hereto.

18 I further certify that I am not of counsel or
19 attorney for either or any of the parties to the said
20 deposition, nor in any way interested in the event of
21 this cause, and that I am not related to any of the
22 parties thereto.

23 DATED: October 11, 2021

24 _____
25 SANDRA BUNCH VANDER POL, CSR #3032